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ABSTRACT

This handbook contains teacher developed lessons to help Utah educators integrate legal education and values education into the overall secondary curriculum. The lessons can also be used by educators in other states. The handbook begins with a discussion of the various teaching methods utilized in the lessons: brainstorming, case studies, community resources, critical thinking, debates, grabbers, mock trials, newspapers, panel discussions, role playing, simulation, and gaming, and miscellaneous approaches, e.g., cop talk series and using literature and media. The bulk of the publication contains the lesson plans, for the junior high and senior high levels. Topics studied vary widely and include juvenile problems and the law, advertising techniques, compulsory school attendance law, student rights and school crime, basic legal concepts, shoplifting, free speech, criminal law terminology, crime in the community, and freedom of the press and privacy. The lessons can be used in U.S. history, sociology, American problems, psychology, business, civics, language arts, English, and American government courses. Provided for each lesson are the subject area in which it can be taught, grade level, major topic, time required, resource materials needed, description of content, educational objectives, teaching procedure, and evaluation method. Many of the lessons are self-contained and include the necessary student readings and other materials; some lessons, however, require the use of publisher available materials. (RM)

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SECONDARY LESSON PLANS

IN LAW-RELATED EDUCATION

Utah State Office of Education

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FOREWORD

Law-related and values education have become an integrated part of the public school curriculum in Utah. These subjects emphasize fundamental issues and concepts upon which society is based by focusing upon law and its consequences, the legal processes that facilitate the function of law, the shared values of American culture, and the skills needed for making moral and ethical decisions.

This handbook will assist Utah educators in integrating the scope and sequence of law-related and values education into the overall curriculum. The lesson plans, most of which were written by Utah educators trained in law-related and values education, were chosen because of the range of teaching strategies, methodologies, and subject content.

Because this publication represents a coordinated effort between teachers from many Utah school districts and the project office, I believe it marks an important step in the growth of law-related and values education in our state.

Walter D. Talbot
State Superintendent
of Public Instruction

PREFACE

This handbook has been compiled in response to the strong need of Utah educators for lesson plans on specific topics in law-related education on the middle school, junior high, and high school levels. This publication provides a means for disseminating these plans and is a vehicle for reaching educators, school resource officers, juvenile justice personnel, and others trained in law-related education. It is hoped that this publication will also furnish teachers with new ideas for incorporating law-related and values education into their reading, language arts, and social studies programs, and for developing their students' critical thinking, decision-making, and legal literacy skills.

Special care has been taken to document the resources cited in the lesson plans, most of which are available from the Statewide Clearinghouse on Law-Related Education. The procedures have been written in a step-by-step process to more fully assist you. The inclusion of teacher comments and evaluations is meant to facilitate the use of the lesson plans in a number of academic subjects and classroom settings.

ACKNOWLEDGEMENTS

The Utah Law-Related Education Project wishes to thank many national law-related education programs and publications which have contributed to this publication. Individual citations are listed in individual lesson plans.

The lesson plans would not exist without the efforts of the following teachers who have helped with specific lesson plans in this handbook: Becky Anderson, Barry Gomberg, Luceen Hansen and Pam Oveson. A number of resource officers and teachers from across the state have also submitted lesson plans and ideas. Teachers trained in Law-Related Education workshops in the following school districts have produced some excellent materials included in this handbook: Alpine, Box Elder, Cache, Davis, Granite, Jordan, Logan, Nebo, Ogden, Provo, Salt Lake, Uintah and Weber.

Many staff members within the Utah State Office of Education were instrumental in the preparation of this handbook. Nancy N. Mathews, Project Director, Linda J. Oswald, Bryan B. Eldredge, Assistant Project Directors, and Jeanne Morrison, Director of the Statewide Clearinghouse on Law-Related Education, have edited, revised and researched the lessons included in this publication over the past ten months. Special thanks goes to Jan Mendenhall, project secretary, for her patience and expertise in typing and retyping the manuscript. Nancy Livingston, Reading Specialist, provided materials used in the Teaching Strategies portion; Beth Davis, Senior Educational Specialist, Equal Opportunity, offered helpful suggestions on Title IX; Lee Gray and Ed Bateman of the Division of Curriculum and Instruction provided a creative cover for the looseleaf binders, division pages and graphics; Kathryn Elggren, former assistant project director, provided assistance in beginning the compilation of the lesson plans; and Sharon Janke and her publications staff cooperated in the printing of the handbook.

This handbook would not have been possible without the financial assistance from the Utah Council on Criminal Justice Administration. We gratefully acknowledge their support of law-related and values education.

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INTRODUCTION

Over the past five years the Utah Law-Related Education Project has provided law-related education training for over one thousand Utah teachers, administrators and school resource officers, kindergarten through twelfth grades, in twenty of our forty school districts.

In conjunction with this training, educators developed lesson plans which they implemented in their classrooms subsequent to the workshops. As teachers tailored lessons in law-related education for their particular grade levels and subject areas, other teachers in their schools were exposed to law-related and values education. From this beginning, a need was recognized for a compilation of lesson plans which would augment resources available to those trained and provide a starting point for teachers whose exposure to this field was limited.

It is the philosophy of the project and its staff that law-related and values education is not an isolated part of the curriculum. Rather, it is an integral part of many subject areas, including language arts, reading and social studies. At the secondary level, specific courses in law, values and citizenship education are often included in the curriculum as elective courses varying in grade level and length of time.

The purpose of this handbook is to enrich and supplement existing curriculum. In order to achieve a scope and sequence curriculum used in most Utah school districts, the two handbooks, one for elementary students and one for secondary students have been developed.

The elementary book is divided into two sections; one section is entitled "Primary Grades" (K-3) and one section is entitled "Intermediate Grades" (4-6). The secondary book is also divided. One section is entitled "Junior High" and one section is devoted to "High School."

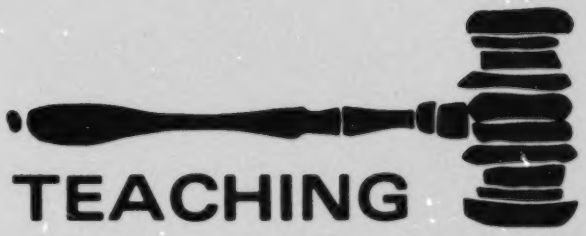
The lesson plan format used in both volumes includes a topic, an approximate grade level, objectives, procedures, resources, evaluation and a time frame for each lesson. Many helpful teacher comments and assignments have been included.

A description of teaching strategies and methodologies pertinent to law-related and values education precede the lesson plans in both volumes. Law-related education is unique in the number of teaching methodologies that can be incorporated into the existing curriculum, including traditional methods such as debate, as well as a "grabbers" method described in the secondary lesson plan book. We encourage you to try a variety of the approaches.

Each lesson includes an approximate grade level; however, we encourage you to not limit yourselves to these. Many of the lessons can be adjusted to one or two grade levels above or below the grade you are teaching.

Most of the media and materials listed in the lesson plans are available from the Statewide Clearinghouse on Law-Related Education. Items can be checked out for up to a month, free of charge. Local media depositories also have many items available; however, teachers should use only their own local depository when checking out materials not available at the Clearinghouse.

The handbooks have been prepared in looseleaf binders to encourage you to add lesson plans of your own. It is anticipated that this will be an ongoing project and we urge you to submit your workable lesson plans to the project. Periodically the project will publish additional lesson plans as the Utah Law-Related Education Project is mainstreamed into an operating division at the State Office of Education.



TEACHING STRATEGIES

BRAINSTORMING APPROACH

Definition: A group problem-solving technique that involves the spontaneous contribution of ideas from all members of the group.

Purpose: Brainstorming provides a very different and stimulating student interaction procedure. The unleashed and concentrated mental power generated in a brainstorming session guarantees both individual and group achievement.

Role of the Teacher

Procedure: A group of students is given a single problem or obstacle and asked to "storm their brains" for ideas. To increase spontaneity and rapidity of ideas, each participant is encouraged to call out his thought the instant an opening presents itself. Each brainstorming session usually intensifies into an exciting rapid-fire, off-the-top-of-the-head group experience. Stimulation and motivation build as each participant contributes and interest mounts to higher and higher levels.

Have each group select a student to record the answers. Establish the rules by which the session will be conducted:

1. Since there are no right or wrong answers, no judgments can be made on another's answers;
2. Be as creative as possible with answers;
3. Try to list as many answers as possible;
4. Build on the answers listed;
5. Advise them there is a time limit.

Summary: The advantages of brainstorming are many. According to experienced users of the procedures, brainstorming:

1. Is stimulating and provides a varied instructional approach. It generates enthusiasm and eagerness to join in by its open invitation to participate and its rapid, free-wheeling approach.
2. Is highly motivating. Students who usually allow their verbal, articulate classmates to dominate question-and-answer periods get the urge to participate. They are not "put down" or degraded for "wrong answers" and feel a real sense of contribution as their suggestions are noted. On the other hand, those who dominate traditional classroom situations are also stimulated to get their ideas out and on the record.

3. Increases "task focus." The brainstorming group is kept on target with very little pressure from the group leader because of the structure and ground rules. Editorializing, personal commentary, rejoinders, eloquent speeches, and other fragmentating activities are eliminated in this process.
4. Promotes spontaneity and creativity. The members of the group begin to link ideas and "bounce suggestions off the group" in a sounding-board procedure that gathers momentum as the session continues. Mental power is fully unleashed in this positive atmosphere.
5. Is efficient and productive. Scores of ideas and suggestions or problems and obstacles can be listed in a few minutes. Parallel suggestions and obstacles lead the group toward sound "next step."

Source: Involvement: A Practical Handbook for Teachers on Law-Related Methodologies, Secondary Level, Law-Related Education Program for the Schools of Maryland, July, 1976, pp. 15-16. (Taken from Dunn, Rita S., and Kenneth J., Practical Approaches to Individualizing Instruction: Contracts and Other Effective Teaching Strategies, West Nyack, N.Y.: Parker Publishing Company, Inc., 1972.)

CASE STUDY APPROACH

Definition: A problem-solving technique in which students utilize cases as original sources from which to exercise their own reasoning ability to reach their own conclusions concerning the law.

Purpose: By using the Case Study Approach, students will develop skills in critical thinking, legal processes and analysis.

Role of the Teacher

Preparation: The case: The case that is selected should center upon a significant legal question, and must pose a variety of possible solutions and provide dramatic interest for students. In addition, the case that is selected should contain sufficient information to relate to appropriate rules and the material must be compatible with the student's reading ability.

Before using the Case Study Approach, students should have learned the fundamentals of the legal system: i.e., the Constitution, the Bill of Rights, the American judicial system, and the structure of the court and criminal justice systems. In addition, students must be given relevant data on social, economic, and political factors, and the teacher must be prepared in the techniques of developing and refining the discussion.

Procedure: The presentation of a legal case normally includes:

1. A statement or review of all the facts of a particular case;
2. An investigation or treatment of the issues and arguments of that case;
3. An analysis or consideration of the decision, including the legal reasoning behind the implications of the ruling.

Before proceeding with any study of a legal case, it is essential for the students to possess a basic knowledge of the law and to interpret and clearly understand the facts of the case. The facts provide the basis for any analysis of a case.

During the phase of exploring the issues and developing arguments in favor of, or in opposition to, a particular position, students are confronted with a

variety of important viewpoints and ideas. They are asked to listen to, consider, and evaluate all viewpoints, including those with which they may disagree.

In the last phase, students are asked to give careful consideration to a decision. This generally includes developing reasons and justifications for the decision in terms of their own analysis of the facts and arguments in the case and a careful weighing of the consequences of the decision. Students also may be instructed to evaluate the actual court decision and the reasoning behind that decision.

Case Method Activity Sequence

Step 1: Review of the facts/
What are the significant facts in the case?

Step 2: Investigation of Issues/Arguments/
What legal issues are involved?
What arguments might be presented?

Step 3: Consideration of Decision and Reasoning/
What would you decide? Why?**
What was the court's decision?
Why did the court come to that conclusion rather than another one?

**Note: Usually, a teacher does not disclose the court's decision until students have gone through this process.

It has been said that a good case-method instructor should be a combination student, analyst, questioner, paraphraser, and instant lecturer. The only way for a teacher to prepare for an ever-changing situation is to know the material and, primarily through practice, to develop an instinct for timing and pace.

The greatest challenge to an instructor in the use of this method is guiding the class in the desired direction without seeming to dominate the discussion. Teachers should keep in mind that the best types of questions are those that require the student to think. Avoid questions that can be answered with a "yes" or "no" or that are purely factual, ambiguous, indefinite, slanted or leading. Students and teachers alike must bear in mind that there may not be a "right" answer to every case.

Alternative Approaches

There are, of course, other approaches to the case study method. An entire case, properly edited for maturity level and reading skills, can be distributed with instructions that the students discover the facts, arguments, issues, and the opinion or opinions of the judges. An alternative method is to assign to small groups the task of dissecting the case.

On a more sophisticated level, where there are majority and dissenting opinions, the students can be presented with two sets of facts drawn from the opinions. Their assignment is to note the differences in tone and detail of the statements. Then, two sets of opinions are handed out, without disclosing which are the majority and dissenting opinions. The assignment at this point is to match the facts with the opinions.

Films and film strips can be easily used in the case study format. Stopping the media at the proper point to examine the facts and the issues sets the stage for evoking the opposing arguments from the students before resuming the film. Even better, students can be asked to role play appropriate parties to the case and even to act as judge and jurors prior to the disclosure of the decision.

Summary: The case study method can demonstrate to students that conflict is a natural part of social development and that the legal system is an effective way to resolve many of these conflicts. Most importantly, the method is the best available method for relating theory to practice.

Gallagher, Arlene F., and Leigh Taylor, The Methods Book, Chicago, Illinois: Law in American Society Foundation, 1977.

Gerlach, Ronald A., and Lynne W. Lamprecht, Teaching About the Law, Cincinnati, Ohio: The W. H. Anderson Company, 1975.

Starr, Isidore, "The Case for the Case Study Approach," Update, Fall 1977, p. 15.

Student's Name _____ Date _____

Course _____

CASE STUDY SHEET

Case Name _____
Court _____
Decision Date _____

Facts:

Legal Issues:

Decision:

Court's Reasoning:

Student's Comment:

Turner, Mary Jane, Law in the Classroom, Boulder, Colorado: Social Science Education Consortium, ERIC Clearinghouse for Social Studies, Social Science Education, 1979.

COMMUNITY RESOURCE APPROACH

Definition: The utilization of community resource persons, both inside and outside the classroom, to enrich law studies curriculum and instruction.

Purpose: By exposing students to a wide variety of different viewpoints and perspectives regarding the topic under study, they are encouraged to critically inquire into the legal issue, problem, or institution under investigation and are asked to reflect upon their own values and attitudes regarding the subject under study.

Role of the Teacher

Preparation: Depending upon the topic under consideration and student interest, the instructor should select an appropriate presentation. There are a wide variety of community resources available such as:

1. Involving local, state, and national justice agencies such as the police, the F.B.I., the municipal, state, and federal courts, the offices of the public defender and public prosecutor, the correction departments, and
2. Using the services of representatives from other law-related organizations, including the local bar association, government regulatory agencies, the Better Business Bureau, the local chapter of the American Civil Liberties Union, university and college law faculties.
3. Introducing material presented in local and national newspapers and magazines, community newsletters, radio and television, and other forms of communications media. Note: See the "Newspaper Approach" (p. 26) for more information about this method.

One example: Instruction on law enforcement and the police takes on added interest and first-hand significance for students when a police officer comes to the classroom or when the class visits the police department. Learning about the police role in our society can be further enhanced by speakers from the local bar association or other community organizations. Other information and viewpoints regarding law enforcement and the police function can also be found on the pages of local newspapers and national magazines in the form of law-related stories, statistics, cartoons, and editorials.

Procedure: Resource Person

The following are tips for you and for the resource person which will help to ensure that both of your expectations for the presentation are achieved and that the experience of both the resource person and the class is a positive one:

What you, the teacher, should confirm with the resource person:

1. The topic to be addressed.
2. The age, grade, number and ability of your students, how the topic applies to what the class is currently studying, and the goals you hope to achieve from the presentation or visit.
3. Dates and times for the presentation, length of time available.
4. Obtain an address so written communication can be made giving details of the visit. Also obtain a phone number to call the day before the scheduled visit to confirm the next day's schedule.
5. When confirming a classroom visit, advise the resource person of parking facilities, classroom location, and a number where you can be reached if he should cancel. For an outside visit, be sure that proper permission has been obtained and arrangements for transportation have been made.
6. Discuss the type of presentation that will be made, i.e.:

    a. Informal lecture with question and answer period.
    b. Slides/filmstrip/movie, including what equipment will be needed.
    c. Role playing, simulation, mock trial.
    d. Brainstorming.
    e. Panel Discussion.
    f. Any special needs (i.e., room seating, props, advance preparation for students, handouts, etc.)

7. Send examples of the unit being studied to the resource person prior to his classroom visit so he will be knowledgeable about the subject matter.
8. Have students prepare questions for the resource person prior to the day of the visit. If desired, these can be presented to the resource person ahead of time or used the day of the visit.
9. Inform the school office about the resource person's scheduled visit.
10. Use the resource person more than once during the school year.
11. Have students write thank-you notes after the resource person's visit.

Some specific pointers the teacher should offer the resource person:

1. Try to involve the students.
2. Discourage lecturing.
3. Use examples of situations familiar to students in making your point.
4. Have a clear idea of what you are trying to assert and be prepared to be challenged.
5. Suggest ways for interested students to follow-up on your presentation at school, in the community, or on an individual study basis.
6. Be natural and relate to the students on their level; avoid professional jargon.

After the presentation, ask the students to evaluate it. Share this with the resource person. Ask for his evaluation of the students' response, participation and level of preparation.

Procedure: Field Trips

A number of the items specified for use of resource persons also apply to field trips outside the classroom. The teacher should confirm the following prior to the field trip:

1. The topic to be discussed and the objectives of the visit.
2. The age, grade, number and ability of your students, how the topic applies to what the class is currently studying, and the goals you hope to achieve from the presentation or visit.
3. Dates and time for the field trip, length of time available.
4. Obtain an address so written communication can be made giving details of the visit. Also obtain a phone number to call the day before the scheduled visit to confirm the next day's schedule.
5. When confirming a field trip activity, obtain information on parking facilities, location, phone number.
6. Obtain proper permission (as per school's policy) and make arrangements for transportation.
7. Discuss the type of presentation that will be made, i.e.:

    a. Informal lecture with question and answer period.
    b. Slides/filmstrip/movie, including what equipment will be needed.
    c. Role playing, simulation, mock trial.

d. Brainstorming.
e. Panel Discussion
f. Any special needs (i.e., room seating, props, advance preparation for students, handouts, etc.)

Use of the Statewide Clearinghouse on Law-Related Education is encouraged, especially for court tours and mock trials. Location: 240 East 4th South, Room 310 A, Metropolitan Hall of Justice, Salt Lake City, Utah 84111. Phone: 535-7770. The Clearinghouse also has an extensive list of resource persons and suggestions for community involvement in Law-Related Education.

Source: Gerlach, Ronald A. and Lynn W. Lamprecht, Teaching About the Law. Cincinnati, Ohio: The W. H. Anderson Company, 1975.

CRITICAL THINKING APPROACH

Definition: The exercise or involvement of careful judgment and judicious evaluation.

Purpose: Developing critical thinking skills is an important goal of all education. It is particularly a vital aspect of law-related and values education. The ability to assess information, formulate answers and make decisions based on that information is a direct result of critical thinking.

Comprehension is critical. To understand what you read requires more than just remembering what the book said. Critical readers think about the accuracy of the information, consider its value, and judge its quality. Critical readers are thoughtful; and this skill is most directly in need of development in education in the United States today.

Role of the Teacher

In order to develop a better understanding of what is read, the process of reinspection, which allows students to reread the material before they answer, should be encouraged. This helps to ensure that information is not only remembered, but understood.

Most often, a reader's comprehension is checked by means of recall which requires remembering what he/she has read. When we make a distinction between recall and comprehension in the student's minds, we encourage them to gain greater understanding.

Comprehension and memory are different skills. The real advantage reading has over media is that if you do not understand a point, you may go back and reread the material, and think about it in order to more fully comprehend what it says. Of course, rereading a paragraph will not always make it understandable, but readers should have the opportunity and time for reinspection.

Procedure: The following questions may help stimulate reasoning and thinking rather than just recall:

1. Why do you think _____ did _____?
2. How do you think _____ felt when _____?
3. How would you feel if you were _____?
4. Have you ever been in a situation like _____?
5. What do you think _____ should have done when _____?

6. What do you think might happen if _____?

7. Why do you think _____?

8. Which is more important, _____ or _____?

9. How would you describe _____? (a person or an action, e.g., loyal, brave, cowardly, lazy, sneaky, illegal, dumb, unfair, wise, etc.) Why?

10. Why would people like (or dislike) _____?

Summary: This approach addresses the development of critical thinking skills in reading. A student who is a critical reader is likely to apply this skill in other areas where reasoning is important. The questions which are included can easily be used with classroom discussions, filmstrips, video tapes and movies to stimulate the reasoning process.

Source: Nancy Livingston, Reading Specialist, Utah State Office of Education.

DEBATE APPROACH

Definition: To examine a question by considering opposed arguments.

Note: Discussion often calls for the cooperative thinking of members of a group in search of a solution or approach to a specific situation. Debate, on the other hand, begins with the assumption that the debaters have already found a solution or approach to a specific situation and their intention is to persuade others that their solution or approach is the proper one.

Purpose: The method of debate can be an effective device for encouraging participants to clearly and logically form arguments based upon evidence to support their positions and to develop a sense of efficacy in their ability to change policy or sway public opinion.

Role of the Teacher

Preparation: Principle Responsibilities of the Teacher:

1. To select or help participants select a subject or question for debate.
2. To insure that participants are familiar with the procedures for conducting a debate.
3. To help participants see the dimensions of the problem and develop clear, logical arguments supported by evidence in support of the position they defend in the debate.
4. To help participants gain an understanding of some of the implicit values in debate such as learning to make convincing arguments from another frame of reference (as might be the case if one is debating a position that does not correspond with one's true position) which should further develop participants' abilities to understand and respect the rights of individuals to hold opinions and beliefs that are different from their own.

Procedure: The form of debate described here is widely used but rather formalized. For your purposes, you may wish to make the procedures less formal or use some other form of debate.

1. Decide or help participants decide upon a subject for debate.
2. Formulate the subject into a resolution. (Questions or subjects related to police always ask for a change from the status quo, e.g., "Resolved that capital punishment should be abolished by the U.S. Supreme Court").

3. Select participants to take part in the debate. Divide them into two teams, one team in support of the resolution. (The most common number of members per team is two but you may wish to have larger teams.)
4. Select a chairman and a time-keeper.
5. Allow sufficient time for participants in the debate to prepare "constructive arguments" (i.e., arguments based upon three to five major points logically developed and substantiated by factual evidence in support of a particular position.)
6. Make certain that those participating in the debate are familiar with the procedures that will be followed.
7. The Debate

    a. The chairman and the debaters are seated at the front of the audience usually with the team in opposition to the resolution to the left of the chairman.
    b. The chairman briefly introduces the subject and the resolution that is to be debated.
    c. The chairman introduces the first speaker from the affirmative team. (Each speaker is introduced when he is given the floor.)
    d. The first speaker from the affirmative team is allowed a set time to present his constructive argument. The time-keeper seated in the audience will inform him when his time is up.
    e. The first speaker from the team in opposition to the resolution is introduced and asked to give his constructive argument. (This alternative procedure is continued until each debater has given his constructive argument. Those who follow will probably need to adjust their prepared speeches to allow for what has already been said by preceding speakers.)
    f. The Rebuttal Arguments follow the Constructive Arguments. At this time each debater is given the opportunity to weaken the position of his opponents by further attacking their position and by answering attacks that have been made upon his position. (No new issues may be introduced during rebuttal arguments and rebuttal arguments always begin with the team in opposition to the resolution.)
    g. At the end of the debate, the chairman makes a few concluding remarks and the debate is over.

Evaluation: You might wish to evaluate the success of the debating teams by informally polling the class to determine how many people agree with the team in

support of the resolution and how many people agree with the team in opposition to the resolution. You might then ask class members to explain whether their own positions were strengthened or changed as a result of hearing the debate and to explain why.

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"GRABBERS" APPROACH

In what way is this teaching approach like a delicate and tempting appetizer? If your interest is piqued by this question, then the question succeeded as a grabber. Grabbers are provocative questions, quotes, surprises and other motivators that can be used to begin most lessons, law-related, or otherwise. They are like good appetizers in that they whet the appetite without filling. In fact, they make one hunger for more. Grabbers, like appetizers, can be related to the upcoming "main course", or they can be a tasty little treat, independent of the rest of the fare.

Law-related lessons tend to be among the most motivating in and of themselves, yet even they benefit from a grabber at their beginning. Grabbers transform a group of individuals who are preoccupied with thirty or thirty-five diverse concerns into a cohesive group united at a single point of focus. This focus can then be utilized by the teacher as she or he directs. Grabbers do what we wish the beginning bell would do: get the class "on task."

Grabbers are easy to create or discover if the teacher keeps in mind the educational maxim: "Make the strange familiar, and the familiar strange." In each case the learner has a point of reference to work from. In other words, grabbers do not require prior knowledge to succeed. They should be constructed so that all or most students can take part, regardless of what they already know of the subject, beyond the most common understanding.

Let's say you are going to try to teach your students about the Sherman Anti-Trust Law designed to reduce monopolies and insure continued competition. This certainly qualifies as a concept "strange" to most students, and would benefit, therefore, by a grabber that helps make it more familiar. The class could begin by handing out play money to four or five students and magazine pictures of alluring consumer goods to others, being sure to include similar types of items in each persons's package. Then allow buyers and sellers to barter for the best deals. Then remove all but one seller and repeat the exercise. Finally, bring back all the sellers, but eliminate all but one of the buyers. This entire sequence could easily be completed in 10 or 12 minutes. The debriefing could incorporate the concepts of "supply and demand," and "competition vs. monopolies." It would give all students a handle to help them to grab hold of an unfamiliar concept.

Sometimes we can grab students who may feel they already know all they need to know about the subject matter for the day. This can be done by introducing a new "twist" which introduces novelty to what is already familiar. The Bill of Rights is something students first hear about in grade school. Yet, the notion of laws which limit government and thereby guarantee individual freedom has provided fertile thought for centuries. An appropriate grabber can "hook" kids into this stimulating discourse.

For example, you could begin a lesson on freedom of expression by standing at the door as students enter and handing out black armbands (a well-known symbol of protest). After the students are seated, you could tell them that you feel strongly opposed to some governmental position. (Any position likely to arouse feelings on both sides will do.) Then tell students that you want them to wear the armbands the rest of the day to help demonstrate that opposition to the rest of the school. As you explain to students that this was only an exercise, encourage them to share their feelings. Were they angry, excited, proud, etc? Would it be proper for a teacher to make such a request of her/his students? What if grades had been threatened for those who did not wear the armbands? This exercise naturally leads into a discussion of freedom of expression, students' rights, Tinker v. Des Moine, and related topics.

Grabbers need not be involved. They can be as simple as the question, "Have any of you ever been in a car that was pulled over by the police?" Look out for an onslaught when you ask that one. Similarly, a challenging statement can grab students like, "I'll bet every person in this class has made a contract this week."

As was stated earlier, grabbers do not have to be related to the upcoming subject matter to be successful. Here are some examples of other sources of grabbers which may or may not relate to the specific subject matter of the day:

1. Each issue of Update magazine includes a section on "Legal Lunacy." Begin a class occasionally by selecting several examples to share with the class.
2. An amusing book titled Murphey's Law collects the postulates and axioms that flow from that painful yet humorous truth. Have a selection on the board when students enter the room.
3. Puzzles and brainteasers are an effective way to begin a class. Many collections exist, such as:

   Burns, Marilyn, The Book of Think, Boston: Little Brown, 1976.

   Gardner, Martin, Perplexing Puzzles and Tantalizing Teasers, New York: Archway, 1971.

   Longley - Cook, Fun for Puzzle People, Greenwich, Conn.: Fawcett, 1971.

   Longley - Cook, Fun With Brain Puzzlers, Greenwich, Conn.: Fawcett, 1965.

   Weintraub, Richard, and Richard Krieger, Beyond the Easy Answer, Washington, D.C.: Zenger Publications, Inc., 1978.

4. Newspapers are rich hunting grounds for relevant grabbers.
5. Sometimes just beginning a class with a story that is actually the facts to a case you want to cover is a highly absorbing way to begin.

Anything that gets the class moving without your having to say, "Okay class, it's time to get started. Get quiet, the bell has rung," will be an improvement. Use your imagination to discover taste-tempting treats your students will love to devour.

MOCK TRIAL APPROACH

Definition: A simulated trial procedure in which students assume the role of characters in a case, set up a mock courtroom, and conduct a simplified trial.

Purpose: The activity offers students an opportunity to gain a better understanding of the purposes and procedures of the adversary system. Experienced students can engage in the resolution of complex social and legal issues. In addition, students are helped to develop skills in questioning and critical thinking, and the activity helps clarify student attitudes toward the law and the legal system and provides the opportunity for the use of resource persons such as judges, attorneys, etc.

Role of the Teacher

Preparation:

1. Acquaint participants with courtroom procedures and roles of those present in the courtroom well in advance of the actual mock trial.
2. Select a case (actual or hypothetical) or assist participants in selecting a case that brings out issues or questions relevant to the objectives of the concept you are studying.
3. Provide participants with a statement of the facts and relevant information about the case.
4. Select participants to role play the various people who will be involved in the trial, e.g.,

    a. The Judge
    b. The Court Officer or Bailiff
    c. The Prosecutor or Plaintiff's Counsel
    d. The Defense Counsel
    e. The Defendant
    f. The Plaintiff (civil case) or Victim (criminal case)
    g. Witnesses
    h. Jury
    i. Court Reporter

Procedure: Conducting the Mock Trial (see pages 24 and 25, "Simplified Rules of Evidence").

1. Opening the court by the court officer.
2. Selection of the jury.
3. Opening statements to the jury, first by the prosecutor or counsel for the plaintiff, then by the counsel for the defense. (Five minutes is the maximum time allowed for the opening remarks of both the prosecutor's or plaintiff's counsel and the defendant's counsel.)

4. Direct examination and cross-examination of the victim(s) or plaintiff(s) and their witnesses. (Plaintiff is examined first by his own counsel and then by the prosecutor or counsel for the defense.)
5. Direct examination and cross-examination of the defendant(s) and their witnesses. (Defendant is examined first by his own counsel and then by the prosecutor or counsel for the plaintiff.
6. Closing arguments by the prosecutor or counsel for the plaintiff and then by the counsel for the defendant. (Each side should be limited to five minutes for the presentation of closing arguments.)
7. The court instructs the jury on the relevant law and tells them to retire and decide upon a verdict.
8. The judge reports the verdict.
9. The judge receives the verdict of the jury.

Note: The Role of the Jury - The jury determines the facts of the case through their acceptance or rejection of testimony. For educational purposes, it may be best to have the jury deliberate in front of the entire class. This will enable students to see firsthand the process of decision making.

Jury Instruction (Jury Trials Only): The judge explains to the jury appropriate rules of law which it is to consider in weighing the evidence. As a general rule, the prosecution (or the plaintiff in a civil case) must meet the burden of proof in order to prevail. In a criminal case this burden is very high. The prosecution must set out such a convincing case against the defendant that the jurors believe "beyond a reasonable doubt" that the defendant is guilty. In a civil case, plaintiff has the burden of proving his/her case by "a preponderance of the evidence." In most states the entire jury has to be convinced, though a recent Supreme Court case permits 9-3 verdicts in state non-capital criminal cases.

Debriefing: This is the most important part of the exercise. It should bring the experience into focus, relating the mock trial to the actors and processes of the American court system. Students should review the issues of the trial, the strengths and weakness of each side's case and the broader questions about our judicial system - Does our system assure a fair trial for the accused? Students should explore their reactions to the roles they played. If a resource person has participated, the debriefing is the best way to make use of his/her expertise.

Summary: The emphasis shouldn't be on perfection, but on a non-threatening exercise with plenty of time for debriefing. Mock trials should be both fun and a learning experience.

Sources: Handbook for Area Coordinators, published by The Law in a Free Society Project of the State Bar of California, 1972. Reprinted with permission.

Arbetman, Lee P. and Edward O'Brien, "From Classroom to Courtroom: The Mock Trial," Update, Winter, 1978.

Arbetman, Lee P., Edward T. McMahon and Edward L. O'Brien, Street Law, Second Edition, St. Paul: West Publishing Company, 1980, Teacher's Manual, pp. 17-18.

SIMPLIFIED RULES OF EVIDENCE

In American courtrooms, elaborate rules are used to regulate the admission of evidence. These rules are designed to ensure that both parties receive a fair hearing and to exclude evidence which is irrelevant, untrustworthy, or unduly prejudicial. For purposes of a mock trial, the rules of evidence should be greatly simplified. The following rules are those most commonly applied to the classroom mock trial:

1. Form of Questions: Leading questions are permitted during cross-examination but not during direct examination. A leading question is one that suggests the answer desired by the person asking the question. Direct questions are generally phrased to evoke a narrative answer. Example of a direct question: "Mr. Bryant, can you please tell us what happened to you on the night of July 23rd?" Example of a leading question: "Mr. Hayes, isn't it true that you were drinking on the night of July 23rd?"

2. Witness Opinions: As a general rule, witnesses may not give their opinions. They should confine their testimony to matters of personal knowledge (i.e., what they did, saw, heard, smelled, etc.). However, certain witnesses who have special knowledge or experience in a certain field may be qualified as an "expert witness." An expert witness is allowed to express an opinion about his or her area of special expertise.

3. Hearsay: Hearsay is an out of court statement offered to prove the truth of what is asserted in the statement. For example, suppose a witness says, "I heard that Darryl Bryant has a criminal record." This is hearsay if offered to prove that Darryl Bryant has a criminal record. Such statements as "I was told...," "I heard...," "I was informed...," are other typical examples of hearsay statements. As a general rule, hearsay is not permitted as evidence in a trial. However, students should know that there are exceptions to the rule against hearsay and that it is sometimes permitted in a real trial.

4. Relevancy: Only relevant testimony and evidence may be presented. Irrelevant evidence is that which has nothing to do with the issues in the case. For example, to ask a witness to an alleged crime if he has read any good books lately, would obviously disclose facts worthless for a judge or jury to consider.

5. Introduction of Physical Evidence: If there is any physical evidence (e.g., documents, photographs, etc.) which either side wishes introduced at trial, this may be done by:

- Asking the judge for permission to have the item marked for identification (e.g., "Your Honor, I ask that this letter be marked for identification as defendant's Exhibit A.").

- Showing the item to the other side to give them an opportunity to make any objections.

- Asking the witness on the stand to identify the item (e.g., "Mr. Kay, I show you what has been marked 'defendant's Exhibit A.' Could you please tell us what it is?"

- Moving the item into evidence (e.g., "Your Honor, I offer this letter for admission into evidence.")

6. Impeachment: The witness statements provided with the mock trials should be considered sworn statements of the witnesses made prior to trial. Student witnesses should be familiar enough with the statement to testify without reading it. Student testimony should not be allowed to contradict the witness' statements. If a witness' testimony contradicts the facts as stated in the statement, the other side can impeach the witness on cross-examination. This means that the other side can point out the contradiction and thereby call into question the truthfulness of the witness. To do this, the side wishing to impeach the witness should:

- Show the witness statement to the person on the stand.

- Ask, "Is this your sworn statement?"

- Have them read the portion of the statement which contradicts their testimony.

- Point out the contradiction to the court.

Arbetman, Lee p., Edward T. McMahon and Edward L. O'Brien, Street Law, Second Edition, St. Paul: West Publishing Company, 1980, Teacher's Manual, pp. 17-18.

NEWSPAPER APPROACH

Definition: The utilization of material presented in local and national newspapers to enrich law studies curricula and instruction.

Purpose: Law-related education as learned in the texts can come "alive" by using the daily newspaper. By using newspapers, students get the feeling that they are learning something which they can use immediately and to which they can relate. Newspaper activities can help to dramatize the important law-related concepts being taught in the classroom.

Role of the Teacher

Preparation: Prior to using newspapers in the classroom, it is helpful to spend a few days acquainting students with the makeup of the newspapers as well as the purpose and functions of the various sections, i.e., news, editorials, features, business and finance advertisements, photo-journalism, sports, comics and columnists, etc.

The teacher should review the newspaper and select information which will enhance and provide an appropriate relationship to the law studies curriculum.

Procedure: Following are a few ways the newspaper can be used in a law-related classroom:

1. Students could:
   a. Compare the writings of two newspapers and do a comparison study regarding different points of view on a particular topic;
   b. Compare newspaper coverage of an event to local and national television news. These comparisons could lead effectively into an understanding of free press issues such as confidentiality of sources, fair trial, etc.
2. To enhance and improve basic skills, students could read law-related stories.
3. A study of the editorial page and editorial cartoons is a stimulating way to improve understanding of issues and different points of view. This is an excellent section to use when stressing a particular law-related point or emphasizing the difference between fact and opinion. Students could be asked to write an editorial using an article in the newspaper, or to draw an editorial cartoon.

4. Consumer information in newspapers can lead to discussion of consumer law issues such as: contracts, liability, credit laws, advertising and deceptive sales practices.
5. Photographs are an excellent impetus for promoting discussion or motivating students to do further research on a law-related topic.

Two excellent guides are now available: **Newspapers and Law-Related Education (Grades 5-9) and Newspapers and Law-Related Education (Grades 10-12), written by Sandra Diamond and Linda Riekes, St. Louis Post-Dispatch, Saint Louis, Missouri, 1981. These guides contain a number of model lessons using all parts of the newspaper.

Note: Many newspapers have "Newspapers in the Classroom" programs and can be contacted to obtain classroom sets of newspapers. In Salt Lake City, Sally Archer is the educational coordinator for the Deseret News. A guide, Understanding the Newspaper, written by Ms. Archer, is available. For information call (801) 237-2140, or write Deseret News for Youth, P.O. Box 1257, Salt Lake City, Utah 84110.

Summary: The use of newspapers is inexpensive, accessible and stimulating and can greatly enlarge the scope of the curriculum; however, newspapers should not be the sole resource in a substantive law-related education program. It is important that precise definitions be obtained from reputable texts.

Source: Adapted from information in Newspapers and Law-Related Education (above reference).

**These guides are available to be checked out from the Statewide Clearinghouse on Law-Related Education, 240 East 4th South, Room 310A, phone: 535-7770.

PANEL DISCUSSION APPROACH

Definition: Discussion of an issue or topic by more than one person, often under the guidance of a leader or chairman.

Purpose: This type of exercise should enable participants to further clarify and evaluate their own feelings and opinions in relation to specific issues or topics being discussed, as well as encourage them to develop an awareness of the feelings, opinions and rationales of others. When well planned, panel discussions can prove to be highly stimulating educational experiences for both panelists themselves and for members of the audience.

Role of the Teacher

Preparation:

1. Help participants to identify an issue or topic which involves an important conflict in values and/or interests. The issue or topic may be set forth as a topical question, a hypothetical incident, a student experience, or an actual case. Assist participants, when necessary, in preparation for the discussion by directing them to various source materials, authorities in the field, etc.
2. Select panel members who will in turn select a chairman or moderator for the discussion. (Four panel members, including the moderator, is an ideal size for a panel discussion.)
3. Insure that all panelists and the chairman or moderator are familiar with the procedures for panel discussions in advance of the discussion itself so that they will be able to fulfill the responsibilities of their roles.
4. Allow time for panel members to prepare adequately for the discussion. (In some situations ten or fifteen minutes should provide sufficient time for preparation while in other situations panel members may wish to prepare as much as several weeks in advance of the scheduled discussion.)
5. Help participants understand the need for fair procedures in discussing an issue or topic; e.g., the freedom to discuss an issue, the obligation to listen to other points of view, the need for orderly, courteous discussion.

Procedure:

1. The chairman or moderator introduces the topic and the panelists.

2. The panelists discuss the issue or topic for a set amount of time. (Ten minutes should be the minimum amount of time allowed for discussion; an hour is the maximum.
3. The chairman closes the discussion and summarizes what has been said.
4. The chairman calls a forum period during which the members of the audience may participate by voicing their own views and opinions or by addressing questions to various panel members. The forum period should be conducted under the coordination of the chairman or moderator.

Note: See "Community Resource Approach" (pp. 9-12) for additional "tips" for using resource persons in the classroom.

Source: Adapted from Handbook for Area Coordinators, published by the Law in a Free Society Project of the State Bar of California, Copyright 1972. Reprinted with permission.

ROLE PLAYING, SIMULATIONS, GAMING APPROACHES

Definitions: Role playing: Participants feel like, think like, or act like another individual and "act out" a particular problem or situation. This approach is an ideal activitiy for examining an adversarial legal system. With practice, students become facile in analyzing points of view that differ from their own.

Simulation: Participation in a hypothetical situation based on a simplified actual setting. Participants react to a specific problem that has been devised in a simulated social environment. A number of excellent simulation games have been developed in law-related and values education, i.e., Police Patrol, Kids in Crisis, Halfway House, Jury Games and United States Presidents Games.

Gaming: Participation in a game setting with a clearly defined set of rules or procedures which participants are required to follow.

Purpose: Although these three modes have differing qualities, they are mutually complementary and all share some common features:

1. Build upon and further the development of a student's imagination or critical thinking skills.
2. Promote the free expression of attitudes, opinions and values.
3. Place the student in a particular problem or situation that is often found in the real world.
4. The student is called upon to consider alternative courses of action.
5. Requires careful planning by instructor and preparation for participants.
6. Necessitates extensive debriefing and indepth analysis of the experience by teacher and class following the activity.

The use of these approaches is an excellent way for students to develop new ideas and creative responses to a problem. In addition, students quite often gain personal confidence and poise from the experience of being in front of the class and thinking on their feet.

Role of the Teacher

Preparation: Materials should be selected which will be meaningful to the class. They should be within the student's capabilities, maturity level and interest. They should also contribute to instruction by conveying worthwhile information.

Because some students will be uncomfortable and embarrassed, these exercises should be presented in a relaxed, non-threatening atmosphere and students should realize there is no right or wrong way to react. Only practice will help students feel more confident in this type of spontaneous situation. Careful planning and adequate student preparation should provide a constructive learning experience.

A few precautions are in order if the role-playing approach is being used for the first time:

1. Initial role-playing activities should be simple, but they should become increasingly more complex if role playing is going to encompass more than an exercise in dramatics.
2. Don't expect polished performances.
3. Give students an opportunity to role play several incidents.
4. Vary the activity.

Procedures: There are three stages involved in the use of a role play, game or simulation:

1. Preliminary planning, preparation, training and instruction.
2. Active class involvement.
3. Follow-up debriefing, analysis and discussion.

When the problem or situation is presented, students must be given enough information to play the roles convincingly. Then, get the class involved as quickly as possible. It is not necessary to spend a lot of time on introduction. During the activity, the teacher should not be involved except for a procedural problem. Student observers should be asked to take notes and share in the debriefing.

Game Procedures:

1. Introduce the game and go over the rules and procedures carefully. This often takes two class periods.
2. Arrange the classroom.
3. Play the game.
4. Debrief the game - both in oral discussion and written evaluations. This again is the most important part of the activity.

Debriefing: Debriefing encourages the use of analytical and critical thinking skills. The teacher must always respect the privacy of the student and never ask personal questions.

The following questions may be useful for follow-up discussion:

1. Were the players realistic?
2. Was the problem solved? Why or why not? How?
3. What were the alternative solutions?
4. Is this situation similar to anything you have personally experienced?
5. How did you feel playing that role?
6. If you repeated the role playing, would you do anything differently?

For the class:

1. How might the activity be improved?
2. What alternative courses of action were available?
3. Was this activity worthwhile?
4. Can you suggest any other subjects or problems that might be considered in some manner?

Summary: Role play, gaming, and simulation exercises can provide law studies programs with added vitality and productive learning experiences. Their successful use is related to the capabilities, commitment, interest and enthusiasm of the instructor using them.

For a complete annotated list of law-related, values and citizenship simulations write to: Social Studies School Service, 10,000 Culver Boulevard, Department VO, P.O. Box 802, Culver City, California 90230.

Sources: Gallagher, Arlene F., The Methods Book, Chicago, Illinois: American Society Foundation, 1977.

Gerlach, Ronald A., and Lynne W. Lamprecht, Teaching About the Law, Cincinnati, Ohio: The W. H. Anderson Co., 1975, pp. 213-215.

MISCELLANEOUS APPROACHES

A. Cop Talk Series

The Utah Law-Related Education Project in conjunction with the Salt Lake City Police Department has produced a series of five video tapes on law-related topics. The series uses short dramas and documentaries to deal with the following five topics: shoplifting, vandalism, search and seizure, runaways, and the role of the police officer. The subjects focus upon juvenile law and its consequences, as well as the Utah processes and procedures which facilitate the functioning of an effective juvenile justice system. The series uses Salt Lake City Police Department personnel in a local setting. Several of the tapes have won national awards. Many district media centers have the tapes available, as does the Statewide Clearinghouse on Law-Related Education. In addition, the Cop Talk Series will appear on Instructional T.V. beginning in the Fall of 1981 and continuing through the school year. Copies of the T.V. guide can be obtained from the Division of Curriculum and Instruction, phone 533-5572, 250 East 5th South, Salt Lake City, Utah 84111.

In addition to the video tapes, The Cop Talk Instructor's Guide is available. Chapters corresponding with the five video tapes contain background information, unit outlines, lesson plans, laws, activities and extensive resource lists. The Guide is available for checkout through media centers and the Statewide Clearinghouse, or can be purchased from the Division of Curriculum and Instruction at the Utah State Office of Education.

The video tapes and Guide form complete lessons in themselves. They may also be adapted and used effectively as part of larger units of study.

B. Using Literature to Introduce Law-Related Concepts

Literature is an extremely effective way to introduce law-related concepts. The world of literature is replete with questions of authority, responsibility, citizenship, conflict/conflict resolution, justice, fairness, the rights of the individual and of groups, and values. Exploring these issues through literature can expand a student's perspective and understanding of them and serve to clarify his/her own positions and feelings.

The Utah Law-Related Education Project has published Teaching Young People About the Law Through Literature: An Annotated Bibliography. This publication was prepared as a guide for teachers (K-8) to provide them with ideas for using literature to introduce law-related concepts. Each book has a brief annotation and includes the author,

illustrator, publisher, publication date, and appropriate grade levels. Many have possible discussion questions. The bibliography is an excellent resource and springboard for teaching law-related and values education. It is available from the Utah Law-Related Education Project and is available for checkout from the Statewide Clearinghouse on Law-Related Education or can be purchased from the Division of Curriculum and Instruction at the Utah State Office of Education.

C. Media

There is an abundance of media available on law-related topics which can greatly enhance the interest level of students and bring to life the subject matter to be covered. In addition to the media listed in each lesson plan, the Statewide Clearinghouse on Law-Related Education has an extensive resource library, including books, periodicals, video tapes, filmstrips, films, kits, simulations, and posters, all of which are available for checkout by educators and the general public free of charge for up to four weeks. For more information call 535-7770. An Annotated Bibliography of Law-Related Curriculum Materials which lists all law-related materials housed at the Clearinghouse is available upon request.

JUNIOR HIGH

Course and Grade Level: Sixth to Eighth Grades
Social Studies

Topic: JUVENILE PROBLEMS AND LAW

Topical Question: What accurate knowledge do junior high school students have concerning problem solving, juvenile law and consequences of juvenile crime?

Time Required: Four weeks with forty-five minute class periods daily

Resources:

Materials: Cop Talk Instructor's Guide, Salt Lake City: Utah State Office of Education, 1981.

Riekes, Linda and Sally M. Ackerly, Juvenile Problems and Law, Second Edition, Law in Action Series, St. Paul: West Publishing Co., 1980. (Classroom Set)
(*A Utah supplement to this text will be available by January, 1982.)

Videotapes - "Cop Talk #1: Shoplifting," 16 mm., color, 27 minutes, grades 7-12; and "Cop Talk #4: Runaways," 16 mm., color, 32 minutes, grades 7-12. Both are available through many district media centers or may be checked out from the Statewide Clearinghouse on Law-Related Education (535-7770).

Daily teacher lesson plans, student activity sheets and student data sheets to be used as indicated.

Large bulletin board space, chart paper and magic markers.

People: School Counselor

Juvenile Court personnel and their videotape, "It's a Matter of Time." (Available in 3/4" or 1/2", approximately 30 minutes)

Parent drivers for field trips

Content: The four-week study is built on the text, Juvenile Problems and Law, by Riekes - Ackerly, 1980 Edition. The study contains daily lessons with materials and daily procedure. Student activity sheets expand, review and debrief students' classroom work. Student data sheets add information for activities about Utah's juvenile court system.

Objectives: Students will be able to:

1. Explain and practice problem-solving steps and be aware decision making is a process.
2. Explain the juvenile court system.
3. Explain their rights under the law.
4. Discuss consequences of crime.

Procedure:
1. Study the overview calendar of daily activities.
2. Contact resource people arranging exact time and date of class participation. Discuss with the resource person the class preparation and their main emphasis.
3. Arrange court tour and transportation.
4. Prepare daily materials for students.
5. Ready bulletin space for display and begin daily plans.

Evaluation:
1. Students' responses on a pre and post test concerning juvenile problems.
2. Students demonstrate through activities, assignments and discussion a developing skill in problem solving.
3. Students are able to verbally discuss juvenile problems using accurate facts about the juvenile process in Utah.

Teacher Comment: The sample lesson plan, calendar, pre-test, and activity sheet that follow are taken from a Utah supplement to Juvenile Problems and Law that will be available in January, 1982.

OVERVIEW: JUVENILE PROBLEMS AND THE LAW

45 Minute Class Blocks

1st Week Problem Solving:	I. Pre Test II. Introduce Book A. Read 1-10 B. Student Activity Sheet: Personal Problem Solving	I. Resource Person: School Counselor A. Cover Skills In Chapter III B. Role Playing Activity	I. Group Work: A. Introduction B. Airplane Game	I. Group Work: A. Review Problem Solving & Roles B. In Groups: pg. 17-26 C. Fishbowl Debriefing	I. Group Work: A. Gerald Gault Case B. Homework: Newspaper Hunt pg. 32
2nd Week Juvenile Court:	I. Discussion: Gault A. Resource Officer Debriefs Case B. Evaluate Plan of Action on Bulletin	I. Resource Person A. Juvenile Court Person Discusses Court. B. Movie: It's A Matter of Time	I. Group Work A. Read 38-41 B. Fishbowl Debriefing C. Resource Officer Discusses Local Laws.	I. Resource Officer pg. 43-54 A. Court Process B. Utah Chart	I. Bulletin Board Review: A. Groups Work Up Different Parts B. Read Lesson 12 Ready to Role Play Hearing.
3rd Week Juvenile Court:	I. Role Play Hearing A. Resource Officer As Resource During Hearing	I. Resource Officer A. Debrief Hearing B. Cover Lesson 13 & 14	Court Tour	I. Resource Officer A. Debrief Trip B. Lesson 15 C. Organize Debate	I. Resource Officer A. Debate B. Debriefing C. Bulletin Review
4th Week Juvenile Crime:	I. Group Work A. Study Lessons 18-20 pg. 92-102 B. Fishbowl Driefing	I. Resource Officer A. Cop Talk: #1 "Shoplifting" B. Debriefing	I. Resource Officer A. Cop Talk: #4 "Runaways" B. Debriefing	I. Group Work A. Study Lesson 21-22 B. Debriefing Fishbowl	I. Group Work A. Study Lesson 23-24 B. Post-Test

Name _____ Date _____

PRE-TEST QUESTIONS FOR JUVENILE PROBLEMS AND LAW

1. Describe the different ways you have observed how people deal with their problems.

_____

_____

_____

2. Is there a step by step thinking procedure in making decisions?

_____ Can you name any steps? _____

_____

_____

3. What skills does a good counselor need? _____

_____

_____

4. What does "due process of law" in our 14th Amendment mean? ___

_____

_____

5. In the Gerald Gault case the United States Supreme Court ruled to grant juveniles certain rights. Name three. _____

_____

_____

6. What is the theory behind having separate courts for juveniles?

_____

_____

7. List four differences between adult and juvenile court. ____

_____

_____

8. Explain the basic steps of the juvenile court process. _____

_____

_____

_____

9. What is a status offense, and name three status offenses. ____

_____

_____

10. What happens to an individual when he/she breaks the law and how does this affect his/her community? _____

_____

_____

11. What are some dispositional alternatives or sentences available to a juvenile judge? _____

_____

_____

12. VOCABULARY MATCH-UP: Match the work with its meaning by placing the correct letter on the line in front of the words.

_____ 1. Alternative	a. A person who helps to solve other people's problems, an advisor.
_____ 2. Consequence	b. A choice between two or more possibilities.
_____ 3. Counselor	c. A young person, not yet an adult, 18 years of age.
_____ 4. Court Referee	d. A serious crime with a sentence of a year or more in prison.
_____ 5. Detention	e. A term used in juvenile court - similar to a sentence in adult court.
_____ 6. Detention Center	f. A court sentence requiring a person to follow certain orders and undergo supervision.
_____ 7. Disposition	g. What happens as a result of an action taken.
_____ 8. Felony	h. A person who has done an illegal act or seriously misbehaved who is a juvenile.
_____ 9. Intake Worker	i. A less serious offense than a felony; usually punishable by a fine or less than one year in county jail.
_____10. Jurisdiction	
_____11. Juvenile	
_____12. Juvenile Offender	

_____13. Misdemeanor

_____14. Offense

_____15. Parole

_____16. Probation

_____17. Probation Officer

_____18. Restitution

_____19. Status Offense

_____20. Vandalism

_____21. Youth Development Center (YDC)

_____22. Youth Services Center

j. A term used in juvenile law for a violation of the law.

k. The deliberate, malicious destruction of property.

l. Violation of a law which applies only to juveniles; an act which is made illegal if a juvenile commits it.

m. A type of sentence or disposition in which the lawbreaker is ordered to repay the victim for loss or harm done to him or her.

n. Confinement or temporary custody prior to a juvenile court hearing.

o. A locked, secure facilty where juveniles are held while awaiting a hearing. These facilities serve about the same purposes for juveniles that jails do for adults.

p. A place where juveniles with problems may go for help without necessarily getting involved with the police or the juvenile court.

q. The state institution for criminally delinquent persons under age 21. This facility is for juveniles what the state prison is for adults.

r. An assistant to the judge, who handles many routine and minor matters to allow the judge time to concentrate on more serious cases.

s. A person who supervises the activities of those who have been placed on probation and sees to it that probation rules are followed.

t. A court worker who reviews a juvenile's background, school records, family situation, and the charges which have been made, and makes recommendations to the court concerning placement.

u. Authority within a specific geographic area, or over certain persons or issues.

v. Release from physical custody before the full sentence has been served.

Course and Grade Level: Sixth to Eighth Grades
Social Studies

Topic: JUVENILE PROBLEMS AND LAW

Topical Question: What are status offenders and what are alternative methods of helping them?

Time Required: One to two forty-five minute class periods

Resources: Riekes, Linda and Sally M. Ackerly, Juvenile Problems and Law, Second Edition, Law in Action Series, St. Paul: West Publishing Co., 1980.

Student Activity Sheet for each student team

Content: The lesson will focus on identifying various types of status offenses and the theory behind the juvenile court system.

Objectives:
1. To increase the students' understanding of status offenders.
2. To be able to discuss alternative ways of helping status offenders.

Procedures:
1. Read Juvenile Problems and Law, Lesson 14, pages 79-81.
   a. The teacher distributes the student activity sheet, "You Be the Judge" (copy included) to each student team of two.
   b. Student teams are given time to read pages 79-81 and give responses on the Activity Sheet; teacher circulates around room helping students.
2. Read Lesson 14, page 82.
   a. The teacher will need to pre-plan the physical setting of the classroom to facilitate this activity.
      (1) Students will be required to make a value judgment to support or not support the six statements on the bottom of page 82.
      (2) Therefore, one area of the classroom is designated as the side that agrees with the statement and another area as the side that disagrees.
   b. The teacher informs the students that they will be physically taking a stand to demonstrate their agreement or disagreement with specific statements regarding status offenders in society. The areas of the room designated as "for" and "against" are pointed out.

c. The introductory statement is now read: "Who do you think should take responsibility for young people, like James and Carla, who are status offenders?"
d. As each of the six alternatives on page 82 is read one at a time, students move to the area representing their point of view. The teacher needs to encourage independent thinking.
e. The teacher observes which alternative receives the most diverse response and shares these observations with the class.
f. After this process of developing a point of view and taking a stand, the teacher leads a discussion on the two statements at the top of page 82.
g. Each student is given the opportunity to select the statement he/she most agrees with and share his/her strongest reason for supporting this point of view.

Evaluation: The students participate constructively in completing the student activity sheet and in performing the "Take a Stand" activity.

Title: YOU BE THE JUDGE	Topic: POLITICAL SCIENCE	GROUP RETRIEVAL SHEET Lesson 14 Pages 79-81

Group _____

Recorder _____

Case 1: JAMES

Read the case on page 80. Discuss and agree on a decision.

Decision:

Reasons That Support Decision:

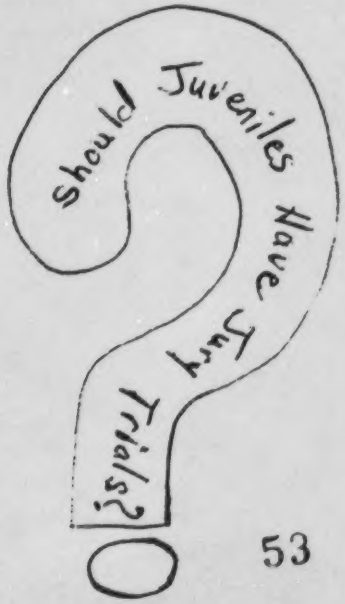
45

Case 2: CARLA

Read the case on page 81. Discuss and agree on a decision.

Decision:

Reasons That Support Decision:



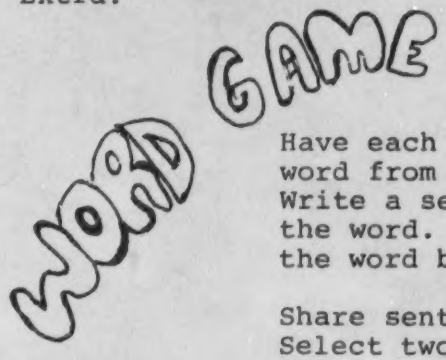
Pros: Reasons for Juveniles Having Juries:

Cons: Reasons Against Having a Jury:

Underline the strongest reasons.

53

Extra!



Have each member choose a word from the list on page 88. Write a sentence explaining the word. Leave a blank where the word belongs.

Share sentences with your group. Select two to share with the class.

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Course and Grade Level: Seventh Grade
Social Studies and Reading

Topic: OPERATION OF MOTOR VEHICLES BY MINORS

Topical Question: When is it permissible for a minor to loan a motor bike to another minor? Is it ever a good practice?

Time Required: One class period

Resources:
People: School Resource Officer

Content: Students are assigned to enact the following role play:

A 12-year-old who has access to a motor bike rides the vehicle at will with his parents' knowledge throughout the neighborhood. One afternoon he rides the bike down a long driveway into the backyard of a neighbor where four younger boys are playing ball. He tells one of the boys that he will let him ride the motor bike in exchange for a popsicle. The younger boy (nine years old) accepts the offer. As the older boy eats his popsicle, he puts the younger one on the bike, gives him a few directions on how to start the engine, omits any direction on stopping it, and sends him down the driveway, into the road and directly into the path of another motorcycle. Both riders are thrown from their vehicles. Neither is hurt severely enough to warrant calling a doctor.

Objectives: At the end of the lesson, the students will be able to:

1. Explain what the laws and consequences are governing minors driving illegally.
2. Discuss what the responsibility of the older boy with the motor bike is to the younger one who was involved in the accident.

Procedure: Students role play the situation as described up to the point where a police officer should be called. From this point, the resource officer takes over and explains what he would do as an officer and what the laws and consequences are for this offense. After the resource officer has spoken, a question and answer period follows.

Evaluation: The students will write an evaluation of both the legal and moral responsibilities involved. Following the family discussion (see Assignment), have students write a summary of their discussion with their parents.

Assignment: The students are asked to discuss with their families the wisdom of being allowed to drive a motor bike while not being legally old enough to do so.

Teacher Comments:

1. Because many of my 12 and 13-year-old students have their own motor bikes and most had at least driven with an unauthorized driver, getting their interest was certainly not one of the problems. They were very interested in hearing the resource officer state the finer points of the law and they swamped him with questions. I think perhaps it may have added to the quality of the questions if they had been written out and handed to the officer.
2. A bulletin board with newspaper and magazine articles regarding motor bikes and motorcycles is an optional activity.
3. It is suggested that the resource officer be used several times during the year.
4. Summaries of the family discussion could be published along with the current law as defined by the resource officer. Send to all the students' parents in the class.

Course and Grade Level: Seventh and Eighth Grades
Social Studies, Civics, Advisory

Topic: AUTHORITY

Topical Question: How do you feel about police officers as authority figures?

Time: Three class periods

Resources:

Materials: Examples of cartoons in which law enforcement officers are included. (A cartoon is included.) Cartoons may also be found in Riekes-Mahe, Youth Attitudes and Police, Law in Action Series, St. Paul: West Publishing Co., 1975.

People: School Resource Officer

Content: The students will examine their attitudes towards the law and law enforcement officers and explore why they have these attitudes through drawing and discussing cartoons, role playing, and by sharing personal experiences with a resource officer.

Objectives: At the end of this lesson, the students should be able to:

1. Explain the differences between power and authority.
2. Examine personal attitudes towards the law and police officers.

Procedures:

1. A discussion will be conducted regarding what authority is vested in police and why police are given this authority. Have students relate examples of people who have authority and people who have power.
2. Invite the school resource officer to class and ask him to relate some humorous incidents concerning the law and law enforcement officers. Ask the class to share their own experiences with the law or those experiences they have heard.
3. Show examples of cartoons relating to law enforcement. Assign each student to create a cartoon on the topic.
4. When the cartoons are completed, display them on the board. The teacher and the class will select three or four to role play. The student will be asked to role play the cartoons from different points of view and to work out solutions for each one. After the role plays, you may wish to have the students discuss how they felt in various roles.

Evaluation:
1. Student interest, cartoons, and discussion with resource officer.
2. In a written evaluation, students should define authority and clarify the difference between power and authority.

Teacher Comments:
1. This is an ideal activity for an art class.
2. Do this lesson in the fall so students will be acquainted with the school resource officer.
3. Invite the resource officer to visit the class periodically during the year.
4. Procedure could be varied by first having the students draw the cartoons and sending them to the resource officer before he or she visits the class. The Resource Officer could then discuss the cartoons with the students.

Course and Grade Level: Seventh and Eighth Grades
Civics/Ethics

Topic: PROBLEM-SOLVING SKILLS AND RESPONSIBILITY

Topical Question: How can I take responsibility for and work toward solutions to my problems?

Time Required: Three to four class periods

Resources:

Materials: Riekes, Linda and Sally M. Ackerly, Juvenile Problems and Law, Law in Action Series, Second Edition, St. Paul: West Publishing Co., 1980, Chapters 1-4.

People: School Counselor or counselor from local area juvenile court or other youth service agency.

Content: This lesson gives the students exposure to problem-solving skills and enables them to take responsibility for their own actions.

Objectives: At the end of the lesson, the students will be able to:

1. Identify a "problem."
2. Develop skills in helping themselves and others in problem solving.
3. Identify and apply four steps used in problem solving.
4. Define what being responsible means to them, by having students internalize an understanding of responsibility and by generating their own personal definitions, rather than by memorizing a dictionary definition.

Procedure:

1. Using Juvenile Problems and Law (Chapters 1 and 2), define what is a "problem."
2. Have students distinguish between problems they can try to handle and problems which are really beyond their control. (Example: divorce of parents.)
3. What is THE problem? Give several examples of situations in which there is a definite and obvious problem. Youth-related examples are suggested. (Examples: cheating on exams; shoplifting.) Have the problem defined in each situation. Students are to ask questions about the problem and explore possible solutions. Whose problem is it? Who has the responsibility to solve the problem?
4. Have the students define in their own words what it means to be responsible, or to take responsibility for someone or something.

5. Introduce a variety of situations. Have the students discuss how and why the person should take responsibility in each event and how they might be able to resolve the situation.
6. Discuss four basic steps to problem-solving. (See Juvenile Problems and Law, pp. 6-7.)

   a. Describe the problem.
   b. If you had this problem, would you really care about solving it. Explain.
   c. What ways can you think of to do something about this problem? Make a list of the possible solutions.
   d. Choose one thing to do. Explain why you think this is the best action to take.

7. Invite the school counselor (or counselor from another agency) to discuss problem solving, sharing their own techniques. Additional materials on counseling skills can be found in Juvenile Problems and Law, Chapter 3 (pp. 11-16).
8. The problem-solving skills learned may be applied to a peer counseling situation to which students may turn to work out problems that are occurring in the classroom, school or their personal lives. (See Juvenile Problems and Law, Chapter 2, pp. 4-10, and pp. 129-133.)

Evaluation: Based on this lesson, set up the classroom rules and procedures. Include the consequences when someone does not take responsibility and follow the rules and procedures as established by the class.

Assignment: Assign each student to write rules and procedures for the classroom.

Teacher Comments: I follow this lesson with a section on students' rights which really gets the students involved. I go over the responsibilities they must assume if they want their rights to be upheld. We also review problem solving and I discuss possible options if they don't like a law or rule. If the peer counseling center were to be set up, it would continue to function throughout the school year if successful.

Course and Grade Level: Seventh to Ninth Grades
Civics/Language Arts

Topic: ADVERTISING TECHNIQUES

Topical Question: What is the purpose of advertising and what should one look for in advertising to be a wise consumer?

Time Required: Four to five class periods

Resources:

Materials: Civil Justice, Living Law Program, New York: Scholastic Book Services and Constitutional Rights Foundation, 1978, Part 1, Chapter 2, pp. 19-35.

Riekes, Linda, and Sally M. Ackerly, Young Consumers, Law in Action Series, Second Edition, St. Paul: West Publishing Co., 1980, Section II, pp. 28-54.

Newspapers, magazines and posters for sources of ads.

Film, Seeing Through Commercials, 16 mm., 15 min., color, Grades 1-9. Available from some district media centers.

Video tape, Consumerism: Let the Buyer Beware, 22 min., Grades 7-12. Available from some district media centers.

People: Representatives from the Better Business Bureau (Salt Lake 487-4656) or the Utah State Office of Consumer Affairs (Salt Lake 533-6441).

Content: The class will explore what techniques are used to influence people to buy a product, and what they as consumers should look for in advertising to be wise consumers.

Objectives: At the conclusion of the lesson, the students will be able to:

1. Explain the purpose of advertising.
2. Discuss the advantages and disadvantages of advertising.
3. Recognize the importance of questioning and analyzing ads.
4. Recognize that laws exist to protect the consumer.
5. Learn the importance of being a knowledgeable and well-informed consumer.

Procedure:

1. View and discuss the suggested film or video tape.
2. Using the text, Young Consumers, discuss lessons 9-11, pp. 28-38; or Civil Justice, Part 1, Chapter 2, pp. 19-35.

   a. Purpose of advertising.
   b. Pros and cons of advertising.
   c. Use of different "appeals" in advertising.
   d. Explain the difference between ads using "puffing" and dishonest ads.

3. Use ads collected from various sources. Display on a bulletin board according to the type of appeals or "puffing" used.
4. Invite the resource person to visit the class. When arranging for this visit, ask that the topic to be discussed should be what one should look for in advertising to be a wise consumer.
5. Assign the students to choose three television commercials, list them and analyze them according to the criteria discussed previously.
6. Assign each student to create an acceptable ad for a product. These will be turned in and displayed.

Evaluation: Students will demonstrate their knowledge of advertising techniques on the basis of classroom discussions, questioning the resource person and written work.

Teacher Comments: The resource person needs to be contacted before the visit to clarify what topics are to be covered. Encourage the resource person to bring many illustrations and visual examples relating to the lesson.

Also refer to this book's section of Teaching Strategies on using resource persons.

Course and Grade Level: Seventh to Ninth Grades
Social Studies and Advisory Classes

Topic: COMPULSORY SCHOOL ATTENDANCE LAW

Topical Question: Why are children required by law to attend school until 16 years of age?

Time Required: One to two class periods

Resources:

Materials: Copy of own school's attendance policy

On Freedom, A Casebook of the Law in A Free Society Project, Santa Monica, California, 1975, pp. 167-168 and 255-256. (Wisconsin v. Yoder.) (Copy included)

Riekes, Linda, and Sally Mahe, Juvenile Problems and Law, 1st Edition, St. Paul: West Publishing Co., 1975, p. 89.

Senate Bill 252 - "Habitual Truancy," 1981 General Session. (Copy included)

Utah Code Annotated, 1953, pp. 356-357, Compulsory School Attendance Law 53-24-1 (Copy included).

Content: Students will examine the Utah Legislative Compulsory School Attendance Law and gain an understanding of its purpose, extent, and the role of school officials and the juvenile court in enforcing the law.

Objectives: At the end of the lesson the students should be able to:

1. State where compulsory school attendance laws originate and at what age a student can legally terminate school attendance.
2. Demonstrate a basic understanding of the juvenile court's jurisdiction in proceedings concerning persons under 18 who have been habitually truant from the school and parents who have made earnest and persistent efforts to improve the child's attendance.
3. Demonstrate a knowledge of the parent's or guardian's legal responsibility to send minors between the age of 6 and 18 to public or private school.
4. Explain the students' own school policy in regard to attendance.
5. State reasons or conditions under which children can be legally excused from school.

6. Discuss and analyze the purposes of compulsory school attendance.
7. Identify alternatives to compulsory school attendance.
8. Explain possible effects on society if the compulsory school attendance age were lowered or abolished.

Procedure: 1. Read the following sample case to students and discuss questions:

Gary is 13 years of age and lives with his parents. Both of Gary's parents work during the day. Gary seldom attends school and is often seen by the other students riding past the school on his bicycle and playing in a nearby field.

Questions:
1. Does Gary legally have to attend school?
2. Who is responsible for Gary attending school?
3. At what age can Gary legally quit school?
4. Who makes the law?
5. If Gary doesn't attend school, what might happen? What are your school officials required by law to do? Teacher should discuss attendance policy within the school. Example - Jr. High Policy - If student misses more than 25% of class time period, he/she will fail and be required to repeat the class the following year.
6. Is it in the best interest of Gary not to attend school?
7. How might Gary be harmed from not attending school?
8. Would the Juvenile Court consider the best interest of the child?
9. Is it harmful to society when Gary does not attend school?
10. If many children remained truant from school, would it harm society?

Answers in Utah Code 53-24-1 and Senate Bill 252 - Habitual Truancy

2. Have students read basic facts of Wisconsin v. Yoder. (See attached copy.) Discuss questions. To encourage student participation, hang a clothesline across the classroom or black board. Have students write their names on a piece of paper and hang their name on line with a clothespin. The position of their name will depend on the stance they take on the issue.

The Amish children should be legally required to attend public schools.

Strongly Agree	Agree	Not Sure	Disagree	Strongly Disagree

Evaluation: Students will demonstrate understanding of the lesson by responding to the following sample case in a written essay:

Carrie was 15. Her boyfriend Harry was 17 and took her to lots of parties. Harry and his friend Steve decided they really wanted a T.V. set from Cable's T.V. store. Carrie said she wanted to be in on whatever Harry did, so she helped plan how they would break into the store and steal a T.V. Since Carrie was so small, she slipped through the basement window of the store and unlocked the door for Harry and Steve.

The police caught them with the T.V. before they left the store. Carried was taken into custody of the Juvenile Court. This was her first offense. Her assigned counselor discovered that Carrie had often been truant from school. Carrie's mother said she didn't know what to do with Carrie any more. (Sample taken from Riekes - Mahe, Juvenile Problems and Law, 1st Edition, St. Paul: West Publishing Co., 1975, p. 89).

If you were Carrie's Juvenile Judge, what would you recommend should happen to Carrie? Why? What might happen to Carrie if she attended your school?

Wisconsin v. Yoder (1972)

Wisconsin state law requires all persons having control of a child between the ages of 7 and 16 to make the child attend school regularly.

The Amish are a religious group who have kept a separate and distinct identity from the mass of American society for about 250 years. As a part of their religion, the Amish retain their 18th century way of dressing and do not own automobiles, radios, telephones, etc.; they speak the German dialect of their ancestors and keep separate from society by forming self-contained communities with their own rules for behavior, education, social welfare, etc.

They obey that part of the Bible which says, "Be not conformed to this world...;" their social values are quite different from those of the larger society. Seeking wealth beyond what is necessary for the family and community is sinful. They discourage competition and the seeking of personal status. They allow for the need to know how to "read, write, and cipher," but the pursuit of higher worldly knowledge is seen as encouraging personal pride. Higher knowledge may also lead to disaffection with Amish society and alienation from God.

The Amish are in many respects model citizens. They pay their taxes and debts, take care of their own medical and health problems, and are seldom involved in any kinds of unlawful behavior.

In earlier times, when the law required education for all until the eighth grade, the Amish sent their children to small country schools, usually filled with Amish children, taught by an Amish teacher, and run by a board of Amish citizens. In recent years, the schools have been consolidated, and the Amish children have had to attend the larger schools in town, where they mingle with non-Amish children and are taught by non-Amish teachers.

The Amish have attempted to set up their own parochial schools; however, to comply with state laws these schools must maintain a general standard curriculum, use certificated teachers, and meet other requirements which are objected to by the Amish.

Recently the Amish have been concerned about the increasing numbers of young people who are leaving the Amish communities. During childhood and early adolescence, the youth are trained to become participating adults in the Amish community. But for a few years, up to the age of 19 (when they are baptized and accepted as full members), they are expected to consider carefully whether they will turn their backs upon the worldly society and accept the burdens of Amish life. This decision may, in part, be made in some degree of ignorance if the youth has not attended high school where he may

learn of other ways of life from that of the Amish. In addition, those young people who have chosen to leave the Amish community often enter regular society with the disadvantage of not having gone to high school.

Also, many school districts which have large members of Amish lose considerable amounts of money because of the lack of attendance by the Amish youth. State aid to schools is based upon the number of students who attend the school regularly.

As a result, there is often a strong feeling in counties where there are large numbers of Amish that the Amish youth should be forced to attend school.

In the fall of 1968, several Amish fathers, including Yoder, were arrested and charged with disobeying the Wisconsin law which requires parents to send their children under the age of 16 to school.

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1. What is the interest of the State in requiring all children to attend schools and to experience a standard curriculum?

2. What reasons do the Amish have for wanting their children to attend their own school?

3. Is the State's requirement that Amish children attend schools with a required curriculum an unfair limitation of the Amish's freedom of religion?

4. Who, if anyone, is harmed by the Amish practice of refusing to allow their children to attend high school? Non-Amish society? The Amish parents? The Amish children?

5. What other justifiable reasons might there be for children not to attend school? What does the Utah Code state? (attached)

From On Freedom, A Casebook: Selected Readings for Teachers. Reprinted with permission. Copyright 1975, 1976 by Law in a Free Society Project, pp. 167-168.

Wisconsin v. Yoder (1972)

After being convicted in the trial court, the Amish parents appealed to the State Supreme Court which reversed the convictions.

The United States Supreme Court upheld the reversal. In an opinion by Chief Justice BURGER, the Court said:

. . .

"There is no doubt as to the power of a State, having a high responsibility for education of its citizens, to impose reasonable regulations for the control and duration of basic education. Providing public schools ranks at the very apex of the function of a State. Yet even this paramount responsibility [has been] made to yield to the right of parents to provide an equivalent education in a privately operated system....

"It follows that in order for Wisconsin to compel school attendance beyond the eighth grade against a claim that such attendance interferes with the practice of a legitimate religious belief, it must appear either that the State does not deny the free exercise of religious belief by its requirement, or that there is a state interest of sufficient magnitude to override the interest claiming protection under the Free Exercise Clause....

. . .

"...In evaluating those claims we must be careful to determine whether the Amish religious faith and their mode of life are, as they claim, inseparable and interdependent. A way of life, however virtuous and admirable, may not be interposed as a barrier to reasonable state regulation of education if it is based on purely secular considerations; to have the protection of the Religion Clauses, the claims must be rooted in religious belief.... [I]f the Amish asserted their claims because of their subjective evaluation and rejection of the contemporary secular values accepted by the majority, much as Thoreau rejected the social values of his time and isolated himself at Walden Pond, their claim would not rest on a religious basis. Thoreau's choice was philosophical and personal rather than religious, and such belief does not rise to the demands of the Religion Clauses.

. . .

"The conclusion is inescapable that secondary schooling, by exposing Amish children to worldly influences in terms of attitudes, goals, and values contrary to beliefs, and by substantially interfering with the religious development of the Amish child and his integration into the way of life of the Amish faith community at the crucial adolescent stage of development, contravenes the basic religious tenets and practice of the Amish faith, both as to the parent and the child.

. . .

"For the reasons stated we hold, with the Supreme Court of Wisconsin, that the First and Fourteenth Amendments prevent the State from compelling respondents to cause their children to attend formal high school to age 16....

. . .

From On Freedom, A Casebook of the Law in A Free Society Project, Santa Monica, California, 1975, pp. 255-256. Opinion as edited in On Freedom, Law in a Free Society Project, 1976.

HABITUAL TRUANCY

1981

GENERAL SESSION

Enrolled Copy

S. B. No. 252 By K. S. Cornaby

AN ACT RELATING TO PUBLIC SCHOOLS; PROVIDING THAT SCHOOL AND PARENTS MUST MAKE EARNEST AND PERSISTENT EFFORTS TO ELIMINATE CHILD'S ATTENDANCE PROBLEM; AND PROVIDING THAT JUVENILE COURT, AFTER SUCH EFFORTS HAVE FAILED, HAS JURISDICTION OVER CHILD WHO IS HABITUAL TRUANT.

THIS ACT AMENDS SECTION 78-3a-16, UTAH CODE ANNOTATED 1953, AS LAST AMENDED BY CHAPTER 76, LAWS OF UTAH 1977, AND ENACTS SECTION 53-24-1.5, UTAH CODE ANNOTATED 1953.

Be it enacted by the Legislature of the State of Utah:

Section 1. Section 78-3a-16, Utah Code Annotated 1953, as last amended by Chapter 76, Laws of Utah 1977, is amended to read:

78-3a-16. Except as otherwise provided by law, the court shall have exclusive original jurisdiction in proceedings:

(1) Concerning any child who has violated any federal, state, or local law or municipal ordinance, or any person under 21 years of age who has violated any such law or ordinance before becoming eighteen years of age, regardless of where the violation occurred.

(2) Concerning any child:

(a) who is a neglected or dependent child, as defined in section 78-3a-2; or

(b) who, in defiance of earnest and persistent efforts on the part of his parents and school authorities as required under section 53-24-1.5, is an habitual truant from school.

(3) Concerning any parent or parents of a child committed to the [**state*industrial*school**] youth development center, in so far as to order, at the discretion of the court and on the recommendation of the [**state**industrial**school**] youth development center, the parent or parents of a child committed to the [**state***industrial***school**] youth development center for a custodial term, to undergo group rehabilitation therapy under the direction of the [**state industrial**school**] youth development center therapist, who has supervision of that parent or parents' child, or such other therapist that the court may direct, for a period directed by the court as recommended by the [**state*industrial school**] youth development center.

(4) To determine the custody of any child or appoint a guardian of the person or other guardian of any child who comes within the court's jurisdiction under other provisions of this section.

(5) To terminate the legal parent-child relationship, including termination of residual parental rights and duties as defined herein.

(6) For judicial consent to the marriage, employment, or enlistment of a child when such consent is required by law.

(7) For the treatment or commitment of a mentally ill or mentally retarded child who comes within the court's jurisdiction under other provisions of this section.

(8) Under the Interstate Compact on Juveniles.

Any judge of the juvenile court may at the request of any judge of district court, sit as a judge of the district court and shall have the same powers as the judge thereof.

Section 2. Section 53-24-1.5, Utah Code Annotated 1953, is enacted to read:

S. B. No. 252

53-24-1.5. The boards of education in every school district shall make earnest and persistent efforts to resolve a child's attendance problem, which may include:

(1) Conferences between the child, his parents, and the school;

(2) Monitoring of attendance by parents and the school;

(3) Counseling of child by school authorities;

(4) Adjustment of curriculum and schedule to meet special needs of the child;

(5) Communication between the parents of the child and the school to encourage and enlist parental support for attendance;

(6) Providing alternative programs if available; and

(7) Enlisting the assistance of community agencies.

The parents or guardian of a child exhibiting truant behavior shall cooperate with school authorities in resolving the attendance problem. If the behavior fails to be corrected after earnest and persistent efforts are made on behalf of the parents or guardian and the school, the school district may expel or release a child from school as provided in section 53-24-1.

This section shall not impose any civil liability on boards of education or their employees.

Senate Bill 252 - Habitual Truancy, 1981 General Session.

CHAPTER 24

COMPULSORY ATTENDANCE

Section 53-24-1. Minimum time—Exceptions, excuses and exemptions.
53-24-2. Truant officers—Appointments, duties and compensation.
53-24-3. Delict of parent or guardian—Penalty.
53-24-4. Duty of boards of education and juvenile courts.
53-24-5. Part-time schools—Duty of board of vocational education.
53-24-6. Courses of study—Hours per week.
53-24-7. Courses of study for minors in employment.
53-24-8. Maintenance schools or classes not required.
53-24-9. Expense of maintenance, how borne.

53-24-1. Minimum time—Exceptions, excuses and exemptions.—Every parent, guardian or other person having control of any minor between six and eighteen years of age shall be required to send such minor to a public or regularly established private school during the regularly established school year of the district in which he resides; provided:

a. That any minor over the age of sixteen years, who has completed the eighth grade or whose services are required for the support of a mother or invalid father may be legally excused to enter employment, but if such minor is so excused, the parent, guardian or other person shall be required to send such minor to a part-time school or class at least one hundred forty-four hours per year.

b. That in each year the parent, guardian or other person having control of any such minor may be excused by the board of education of the district from sending such minor to a public, regularly established private or part-time school or class for any of the following reasons:

(1) That such minor has already completed the work of a senior high school.

(2) That such minor is taught at home in the branches prescribed by law for the same length of time as children are required by law to be taught in the district schools; provided, that a minor legally excused to enter employment may be excused from attending a part-time school or class for the reason that such minor is taught at home the required number of hours.

(3) That such minor is in such physical or mental condition (which must be certified by a competent physician if required by the board) as to render such attendance inexpedient and impracticable.

(4) That no such school is established, or class is taught for the requisite length of time, within two and one-half miles of the residence or the place of employment of the minor, unless free transportation is provided.

(5) That proper influences and adequate opportunities for education are provided for in connection with the employment of such minor.

c. That any minor who has reached the age of sixteen years and whose school experience has, in the judgment of school officials, demon-

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strated that such minor is unable to profit from school attendance, either because of the student's inability or because of the student's continued negative attitude toward school regulations and school discipline, may be excused from school attendance upon recommendation of the school superintendent, and approval of the district board of education.

d. The evidence of the existence of any such reasons for nonattendance must be in each case sufficient to satisfy the board of education of the district in which the child resides, which, if so satisfied, shall issue a certificate stating that the holder is exempt from attendance during the time therein specified.

History: R. S. 1898, § 1962; L. 1905, ch. 95, § 1; C. L. 1907, § 1962; C. L. 1917, § 4740; L. 1929, ch. 47, § 1; R. S. 1933 & C. 1943, 75-25-1; L. 1953 (1st S. S.), ch. 19, § 1; 1957, ch. 99, § 1.

Compiler's Notes.

The 1953 amendment substituted "during the regularly established school year of the district in which he resides" for "at least thirty weeks in each school year" in the first paragraph; redesignated the provisos as subds. a and b; deleted "being of the age of fourteen years and upward" appearing after "eighth grade" and "or any minor over sixteen years of age" appearing after "father" in subd. a; redesignated the last paragraph as former subd. c, and substituted "board of education" for "superintendent," deleted "and the superintendent upon the presentation of such evidence" and inserted "which, if so satisfied" before "shall issue."

The 1957 amendment inserted subd. c and redesignated former subd. c as subd. d.

Cross-References.

Child labor and employment permits, 34-23-4 to 34-23-10.

Handicapped children, exemption from attendance requirements, 53-18-6.

1. Place of attendance.

Where county school district provides adequate schools and facilities, a child, resident therein, who would attend a school outside the district, must meet the requirements such school may exact. Logan City School Dist. v. Kowallis, 94 U. 342, 77 P. 2d 348.

Collateral References.

Schools and School Districts⇐160, 173.

79 C.J.S. Schools and School Districts §§ 463 to 470.

Compulsory attendance, 47 Am. Jur. 412-415, Schools §§ 156-159.

Applicability of compulsory attendance law covering children of a specified age, with respect to a child who has passed the anniversary date of such age, 73 A. L. R. 2d 874.

Discretion of school authorities to deny to pupils or teachers scholarship, certificate, diploma, license or other like privilege, to which they would otherwise be entitled by law, 121 A. L. R. 1471.

Extent of legislative power with respect to attendance and curriculum, 39 A. L. R. 477, 53 A. L. R. 832.

Failure of student to attain or maintain prescribed scholastic rating as ground for dropping him from roll of public educational institution, 86 A. L. R. 484.

Marriage or other domestic relations as ground for exclusion of pupil from public school, 63 A. L. R. 1164.

Personal liability of school authorities for dismissal or suspension of pupil, 42 A. L. R. 763.

Regulations forbidding pupils to leave school grounds during school hours, 48 A. L. R. 659.

Religious beliefs of parent as defense to prosecution for failure to comply with compulsory education law, 3 A. L. R. 2d 1401.

Smoking as ground for expulsion or suspension of pupil, 33 A. L. R. 1180.

Validity, construction, and application of statutes or regulations concerning recreational or social activities of pupils of public schools, 134 A. L. R. 1274.

Validity of regulation by public school authorities as to clothes or personal appearance of pupils, 14 A. L. R. 3d 1201.

What constitutes "private school" within statute making attendance at such a school compliance with compulsory school attendance law, 14 A. L. R. 2d 1369.

Utah Code Annotated, 1953, pp. 356-357, Compulsory School Attendance Law 53-24-1.

Course and Grade Level: Seventh to Ninth Grades
Social Studies

Topic: STUDENT RIGHTS AND SCHOOL CRIME

Topical Question: How should schools respond to student crime and vandalism without unnecessarily compromising the rights of students?

Time Required: Five forty-five minute class periods

Resources:

Materials: Arbetman, Lee P., Edward T. McMahon and Edward L. O'Brien, Street Law, Second Edition, St. Paul: West Publishing Co., 1980, p. 299 (Goss v. Lopez).

"Firm, Fair and Consistent," Bill of Rights in Action, Constitutional Rights Foundation, September 1978, pp. 17-19 and 23.

Naylor, David, "Classroom Strategies: Teaching About Student Rights and Responsibilities," Update, Fall 1979, pp. 14-16 and 43-47.

"Questions and Answers - About the Privacy Rights of Young People," Bill of Rights in Action, Constitutional Rights Foundation, September 1979, p. 21.

"Stopping School Vandalism," Bill of Rights in Action, Constitutional Rights Foundation, September 1978, pp. 20-23.

"Student Rights," Bill of Rights in Action, Constitutional Rights Foundation, Fall 1974, pp. 23-27.

"The Safe School Study," Bill of Rights in Action, Constitutional Rights Foundation, September 1978, pp. 13-16.

Content: The lesson employs a variety of activities taken or adapted from Bill of Rights in Action and Update magazines that relate to the topic. The "grabber" is a role-playing activity requiring students to act out discipline proceedings following six incidents of school crime. The next activity will raise students' awareness of the problem of violence in schools. Following that are two activities which explore separate aspects of the rights people have when they are students in school. The first clarifies values and informs students about the privacy rights of young people. The second is a case

study of Goss v. Lopez, the landmark Supreme Court case delineating the due process rights a student has when being suspended from school. The final activity requires students to integrate the values of reducing school crime and protecting students' rights through a value ranking exercise.

Objectives:

1. Students will increase their understanding of criminal activity and vandalism associated with schools.
2. Students will increase their understanding of students' rights to privacy and due process.
3. Students will be able to predict when efforts to reduce school crime and vandalism will infringe on students' privacy and due process rights.
4. Students will be able to choose methods of reducing school crime and vandalism that are the least intrusive on student rights.

Procedures:

1. Have your class role play "The Disciplinarian" exercise. This is located in the "Firm, Fair and Consistent" article. (A copy of the article is included at the end of this lesson plan.) In the debriefing, add a question exploring the degree to which the various disciplinary methods invade students' rights.
2. Reproduce and distribute to students the article, "The Safe School Study." (A copy is included at the end of this lesson.) Have students read the article and then individually complete exercise #4. Discuss with the class as a whole the article and the students' responses to the exercise.
3. The next exercise utilizes the article, "Questions and Answers - About the Privacy Rights of Young People." Clear the desks away from the middle of the room and have the class form a line down the middle of the classroom. Then read each of the following statements and have students walk to one designated side of the room or the other, depending on whether they agree or disagree with the statement. Students may "pass" on any particular question(s) by remaining in the middle of the room. After each statement and choice, discuss students' reasons. Using the article, discuss what the law currently says concerning each issue listed below:

   a. Minors should have a right to privacy.
   b. Parents should be able to search their children at will.
   c. School authorities should have the right to search a student's locker or personal property such as a purse without a search warrant and without her/his consent.

d. It should be legal for school authorities to frisk a student or search his or her clothing.
e. Students should be required to submit to "strip searches" at school if school authorities have a reason to require one.
f. School authorities should be able to suspend or expel a student as a result of a search that a school authority conducted of that student.
g. School authorities should be able to turn over to police drugs or other kinds of criminal evidence that they find when searching students at school. Further, the police should be able to use their evidence in court against those students.
h. Students should have the right to see their own school record.

4. Use the case study method described in "Sample Lesson Five" of the Fall, 1979 issue of Update (a copy is included at the end of this lesson) to analyze Goss v. Lopez. This method allows students to choose the opinion they agree with from the majority and minority opinions in the case before being told which is which. Opinion II was the majority opinion and is, therefore, the current law of the land.
5. Have students respond to "Mario's Suspension" in the "Firm, Fair and Consistent" article of the September, 1978 issue of Bill of Rights in Action. The instructions for this exercise follow the scenario.

Evaluation: Discuss with the class the three approaches to reducing school vandalism described in the "Stopping School Vandalism" article. (A copy of the article is included at the end of the lesson.) Have students write individual essays evaluating each approach in terms of:

1. Whether they feel it would be effective, and why;
2. How much it infringes on students' rights.

Assignment: For extra credit, or as part of the lesson, students could complete the "School Crime and Violence Project" on page 23 of the September, 1978 Bill of Rights in Action. (A copy is included at the end of the lesson, as part of the "Stopping School Vandalism" article.)

Teacher Comment: Try to impress upon students that "people" have rights and that students are people. The rights of privacy and due process often called "students' rights" are merely adaptions of broader protections suited to the particular needs of the school setting.

The "Student Rights" article from the Fall, 1974 issue of Bill of Rights Newsletter is included for your reference, though it is slightly dated.

THE CASE OF GOSS V. LOPEZ

In 1971 widespread student unrest took place in the Columbus, Ohio, public schools. A number of students who either participated in or were present at demonstrations held on school grounds were suspended. Many suspensions were for a period of ten days. Students were not given a hearing before suspension, though some students and their parents were given informal conferences with the school principal at a later date. Ohio has a state law that provides free education to all children between the ages of six and twenty-one. A number of students, through their parents, sued the board of education, claiming their rights to due process had been violated when they were suspended without a hearing.

The Supreme Court decided in the Goss case that a student who is suspended for ten days or less should be offered due process before his or her suspension. This due process should include: (1) oral or written notice of the charges; (2) an explanation (if the student denies the charges) of the evidence that the school has against him or her; and (3) an opportunity for the student to present his or her side of the story.

The Court stated that in an emergency situation, the student could be sent home immediately and a hearing held at a later date. The Court did not give students a right to a lawyer, a right to cross-examine witnesses, a right to call witnesses, or a right to a hearing before an impartial person.

In the Goss case the Court considered the due process interests of harm, costs, and risk to arrive at the decision. They ruled that reputations were harmed and educational opportunities were lost during the suspension; that the informal hearing would not be overly costly for the schools; and that while most disciplinary decisions were probably correct, an informal hearing would help reduce the risk of error.

Arbetman, Lee P., Edward T. McMahon, and Edward L. O'Brien, Street Law, Second Edition, St. Paul: West Publishing Co., 1980, p. 299 (Goss v. Lopez).

Goss v. Lopez (419 U.S. 565, 42 L. Ed. 2d 725, 95 S Ct. 729) [No. 73-898] Argued 10-16-74. Decided 1-22-75.

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CULTURE

Stopping School Vandalism

School vandalism is widespread and costly. Nearly every school in the nation experiences this problem to some degree. According to the "Safe School Study," 24,000 schools are vandalized each month. The cost of repairing and replacing vandalized school property has been estimated at $200 million per year. Various kinds of vandalism prevention equipment and school security personnel cost an additional $400 million.

What is school vandalism? Why has it increased in recent years? What is being done about it? These questions will be explored in the following article. After finding out about the vandalism problem nationally, you will be better able to judge for yourself how serious this problem is in your own school, and how you might be able to stop it.

What Is School Vandalism?

Vandalism could be defined as including all acts by persons who intentionally deface, damage or destroy school property. Certainly, this definition would cover an incident in which several students break into a classroom, overturn desks, throw paint on the walls, and set a pile of papers on fire. But should vandalism also include acts such as students writing on desks, littering, and breaking locker doors by slamming them too often? Where should the line be drawn between vandalism and other acts against school property?

Some authorities draw a thin line between vandalism and "preventable acts." Vandalism, these authorities explain, is not only intentional, but it is also malicious. On the other hand, "preventable acts," while also destructive, are more the result of carelessness or thoughtlessness.

For example, two students asked by their teacher to return a movie projector push the audio-visual cart to see how fast they can go. The cart hits a crack in the walkway and overturns. The projector is a total loss. The students should have known better.

But was it an act of vandalism? In any event, the projector will have to be replaced.

Most students look down on "vandals." But what about their own acts of carelessness with school property? If large numbers of students mistreat school property or casually drop candy wrappers on the floors, a few students might feel that breaking school windows is okay, too.

Why School Vandalism?

School vandalism has always existed, but more recently it has gotten more frequent and costly. Why is this?

The U.S. Office of Education blames a growing permissiveness in American society. According to this view, the old rules and values governing family life, parental responsibility and codes of conduct no longer seem to apply to *any* age group.

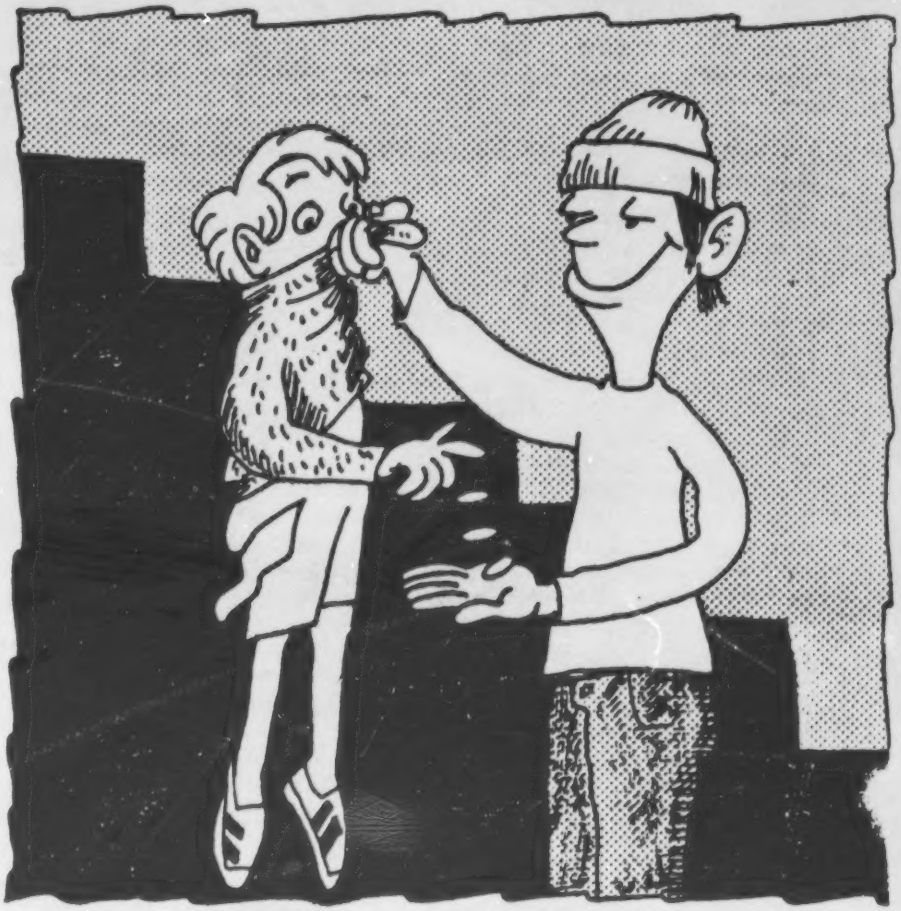
Another explanation for the recent increase in school vandalism might be that juvenile delinquency and crime have also skyrocketed in recent years. According to the FBI, about half of all serious crimes are now committed by teenagers. This, in turn, may be due to the fact that the percentage of teenagers in the population has recently become larger.

The schools themselves may also contribute to the problem of vandalism. Some school critics blame lax discipline and easier academic standards for the upsurge in vandalism. Others say that vandalism is a sign that at least some students are being treated unfairly by teachers and administrators.

What reasons do school vandals themselves give? When they are caught, which is not very often, a typical respose is, "I don't know why I did it."

Senior Scholastic magazine, in its February 23, 1978 issue, asked two vandals to explain their actions. "I know it's not right," replied a white suburban youth who had smashed windows at his high school, "but I guess I just didn't feel as though that school had much to do with me—except that it was always ordering me around, really controlling my life. . . . It made me feel better."

Another vandal who broke windows at his high school (a black student living in a poor New York City neighborhood) said, "I'm supposed to



be concerned about human rights in Russia, short stories, and a dozen other things. But nobody seems to care about *my* life. . . . I guess it was just a way of getting back."

Hardening Security

The first strategy adopted by many schools across the nation to stop vandalism was a typically American one. The schools turned to technological hardware and installed such things as burglar alarms, sound and motion detectors, and plastic windows. Some schools also began to use graffiti-resistant paint.

Alexandria, West Virginia, installed a "super security program" in its schools after spending $175,000 for vandalism in 1971. Alexandria used a wide variety of technological aids designed to detect and prevent school vandalism. These aids included video, microwave, radar, ultrasonic and infrared devices. In addition, cameras, unbreakable windows, floodlights, and UHF and VHF radio equipment were utilized. A school security center with a direct line to the police was set up to monitor the equipment at night. By 1974, the Alexandria school system reported that it had reduced its vandalism costs to $50,000 a year.

In addition to using gadgets, school districts also hired more nightwatchmen and organized dog patrols. Some schools even moved mobile homes onto school grounds, complete with live-in families. The presence of these "watchmobiles" reportedly keeps many vandals away.

The "Safe School Study" attempted to evaluate the dependability of these strategies designed to harden school security. In general, school principals tended to regard security devices as effective. However, the more complicated they were, the more undependable they became. For example, it was discovered that sound-sensitive systems often were set off by heavy traffic or airplane noises. Night patrols and other methods using security personnel to

prevent vandalism generally were rated higher in dependability than the security devices.

Restitution and Community Service

Another approach to stem vandalism involves making the vandals responsible for their acts of destruction. For example, Los Angeles has a restitution program which requires students or their parents to pay for vandalized school property. In 1977, Los Angeles schools recovered $50,000 in restitution payments.

In 1978, *Senior Scholastic* magazine polled high school students concerning what they thought should be done about vandalism. Out of 17,000 responses to this poll, 67% thought that vandals should be made to do some community service work. This might involve such things as picking up litter, painting school walls, removing graffiti, or helping to plant new trees and shrubs around schools or in public parks.

Although restitution and community service may have a greater positive effect on vandals than school suspensions or other traditional disciplinary methods, the vandals have to be caught first. But since most school vandals are never captured, the effectiveness of restitution and community service programs is limited.

Cash Incentives

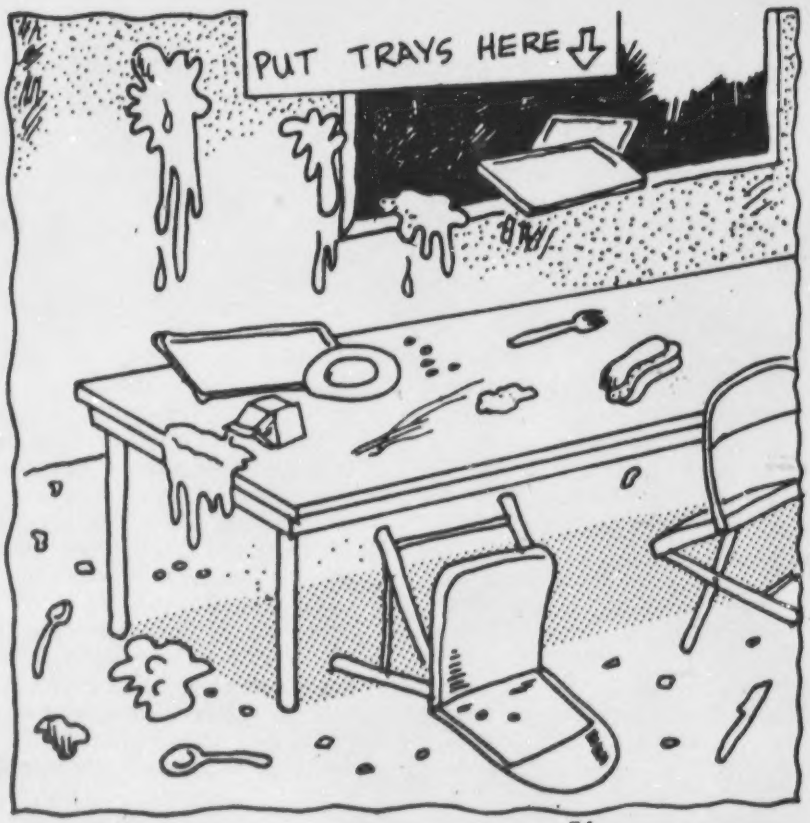
Luther Burbank Junior High School in San Francisco was suffering up to $24,000 in vandalism damage each year. Borrowing an idea which has been successfully tried in other cities, the San Francisco Board of Education decided to reward students if vandalism decreased.

The school board transferred $12,127—the cost of vandalism at Burbank for the 1977 spring semester—to a special student council fund. The students at Burbank were told that they could spend whatever was left after the vandalism bills were paid for the current semester. The student body would decide how to spend this sum, "just so long as it's legal."

The Burbank students worked all-out to get as much money as they could from the fund. They wore anti-vandalism buttons, held poster contests, and published a running total of the balance during the semester.

As school spirit rose, vandalism dropped. At the end of the term the students had a $8,361 windfall. One student was quoted in *Newsweek* magazine as saying, "Students now really care about the school."

Other schools which have tried out this idea have had similar success. With their "vandalism money" the students have purchased such things as new football bleachers, stage lights, and playground equipment. Parents are generally supportive, but some ask, "Why do we have to pay our kids not to vandalize?"



Activities For Discussion and Writing

1. Look up the origin of the word "vandal."
2. Which of the following do you think should be considered as acts of vandalism?
   - window breaking
   - writing on desk tops
   - carving initials on desk tops
   - breaking into a classroom and throwing paint on the walls
   - sawing down a small tree on school grounds
   - spraypainting school walls with graffiti
   - littering
   - slamming locker doors frequently until they break
   - filling keyholes with liquid solder
   - throwing milk cartons in the cafeteria
3. Without using any examples, write a definition of *school vandalism.*
4. Take a walk around your school and make a list of all the evidence of vandalism you see.
5. Rank order from best to worst the following methods of stopping vandalism discussed in the article:
   - electronic detection devices
   - unbreakable windows
   - nightwatchmen
   - "watchmobiles"
   - restitution
   - community service
   - cash incentives
6. Decide with your class which of the methods listed in no. 5 would be the best way to stop vandalism at your school.

School Crime and Violence Project

Find out the extent and cost of crime and violence in your school district and in your school last year. Statistical information on the cost of school crime can usually be secured from the superintendent's or principal's office. Your teacher may want to assign students individually or in teams to get the information requested below.

	Your School	Your School District
A. Vandalism (types, number of incidents, and cost)		
B. Arson (types, number of incidents, and cost)		
C. Theft (types, number of incidents, and cost)		
D. Weapons (types and number confiscated)		
E. Assaults (number of incidents involving students, teachers, and other school personnel)		
F. Rape (number of incidents involving students, teachers, and other school personnel)		
G. Murder (number of incidents involving students, teachers, and other school personnel)		
H. Student Suspensions and Expulsions (number due to criminal behavior)		
I. School Security (number of security officers and cost of security system)		
J. Fire and Theft Insurance (cost: Have rates increased recently? If so, why?		
K. Total Amount Budgeted for School Crime-Related Expenditures (insurance, security, damages, settlements, etc.)		
L. The Human Factor: Interview school officials, teachers, security guards, PTA leaders, community members, and students. Ask them if they think crime and violence are important school problems. Also, ask if they feel safe when they go to or visit school during the day, and at night. Finally, try to get suggestions for reducing school crime and violence.		

After completing your research, prepare and debate in class specific proposals to reduce crime and violence in the schools of your community. Take a vote in your class to select the best proposals. Then, present the ideas your class has developed to the school faculty, school administration, district administration, schoolboard, and/or the news media in your community.

Remember, student generated programs, if carefully planned and implemented, can probably be more successful than those developed by anyone else.

Clark, Todd, Editor, "Stopping School Vandalism," Bill of Rights in Action, Constitutional Rights Foundation, Los Angeles, California, September, 1978, pp. 20-23.

Student Rights

The issue of student's rights in the schools has been considered by both the educational and legal professions. Some schools are giving students a greater voice in planning classes and school rules, with the belief that responsibility and democracy are best learned through practice. As Morrell J. Clute, a professor of education at Wayne State University, wrote, "If a child is to understand the issue of rights and responsibilities, he must not only experience respect for his own human and civil rights, but he must be helped to understand that these rights exist for him only as they are protected for all others. . . . Responsibility cannot be learned in absence of freedom; nor can respect for law and order be learned in the absence of respecting experience." Other teachers and educators believe that a more structured, traditional classroom encourages learning best. This theory holds that certain concepts and facts must first be taught before a student can experience and wisely exercise responsibility and rights. Schools in this view should be places to absorb important information, so that upon completing his or her education, a student has the tools necessary to intelligently exercise his or her adult rights and responsibilities. In addition, many people believe as Justice Black did, as expressed in his dissenting opinion to *Tinker vs. Des Moines Independent Community School District*, "if the time has come when pupils of state-supported schools can defy and flout orders of school officials to keep their minds on their own schoolwork, it is the beginning of a new revolutionary era of permissiveness. . . . School discipline, like parental discipline, is an integral and important part of training our children to be good citizens — to be better students."

In the courts, students' rights are developing in some areas because students and parents are challenging rules and actions taken by many schools or school boards. Usually, courts do not like to become involved in school problems because the judges believe that this field is an area of discretion, where teachers and educators who are trained in these matters should be allowed to exercise their judgment. However, the courts do examine many cases where the school's action is claimed to have violated the law. Many times the claimed violations involve constitutional rights, including the First Amendment guarantee of freedom of expression; the Fourth Amendment; The Cruel and Unusual Punishment Clause of the Eighth Amendment; the Ninth Amendment; the Equal Protection Clause of the Fourteenth Amendment; the Due Process Clause of the Fourteenth Amendment, and the right of privacy.

Freedom of Expression -
First Amendment Rights

In 1969, the United States Supreme Court decided *Tinker vs. Des Moines Independent Community School District*, a landmark decision on students' rights to free speech. This case involved three students who, along with a group of adults and students, agreed to wear black armbands during the Christmas season and to fast on two days to protest American involvement in the Vietnamese War. The principals of the Des Moines schools found out about this plan and adopted a rule that any child wearing an armband would be asked to remove it and that a child who refused would be suspended until he or she came to school without an armband. Three students, John Tinker (age fifteen), Christopher Eckhardt (age sixteen) and Mary Beth Tinker (age thirteen) were suspended under this rule, and in response, they sued the school district for violating their right to free speech. The Supreme Court supported the students and held that the First Amendment rights are available to students also, but within certain limitations. Schools can prohibit students' expressions if the speech materially disrupts classwork, involves substantial disorder or invades the rights of others. However, a general fear of disruption is not enough reason for school authorities to limit the students' speech, the court said, because "any departure from absolute regimentation may cause trouble." The schools then must show more than a "discomfort" or "unpleasantness" that would occur if an unpopular point of view was presented. Students, the court added, are not "closed-circuit recipients of only that which the state chooses to communicate" and have the right to express their own opinions.

The *Tinker* decision did not settle all of the questions in this area of students' rights. For example, in *Baughman vs. Freienworth*, 478 F. 2d 1345, a Court of Appeals examined what limitations and rules were constitutionally acceptable. A high school regulation, in that case, required submission of all publications to the principal before distribution, so that he or she could decide if the paper has "libelous or obscene language, advocates illegal action or is grossly insulting to any group or individual." The court noted that a rule to control the time, manner or place of distribution would be perfectly acceptable. Here, however, a regulation that requires a principal to examine a publication before it is passed out must state its standards more specifically. Otherwise, overbroad, vague rules could inhibit students from

writing material that was acceptable. In addition, the court said a predistribution regulation such as this one must also provide for: a definition of what "distribution" means and how it applies to different kinds of publications (newspapers, flyers, pamphlets, etc.); prompt rulings on submissions; statements as to the effect of the principal's failure to rule on publications; and a procedure for appeals.

Another case, *Karp vs. Becken*, 477 F. 2d 171, points out another problem area in the *Tinker* ruling. Here, a group of students planned to stage a walkout during an awards assembly to protest the non-renewal of a teacher's employment contract. The assembly was canceled because there were reports that a group of Lettermen would attempt to prevent the protest. As a result, some students walked out of their classes. During lunch, a group of newsmen and protesting students gathered in a school room, and Steven Karp went to get some protest signs from his car. The vice principal then requested the signs be turned over to him and that Steven come with him to the office. While Steven was in the office, the Lettermen and demonstrating students began pushing and shoving each other. The school then suspended Steven for five days but said it would be willing to reduce the suspension to three days if Steven would agree not to bring anymore signs on campus. Steven refused and his parents sued the school, raising the question of the degree of disruption necessary before a student's freedom of expression may be limited. The Court of Appeals decided that, to limit a student's right of expression, the effect must be more than the arousal of mild curiosity and less than actual disorder and disruption for three reasons. First, the First Amendment does not require officials to wait for actual disruption before taking action. Secondly, the *Tinker* decision did not require the disruption or disorder to be a certainty, but only reasonably foreseeable. Thirdly, since public policy is strongly in favor of education, the degree of disturbance required for action by school officials is less than would be required for action by other officials if the disturbance occurred on a street corner. In this case, the court said the school officials were justified in taking the signs from Steven and curtailing his freedom of speech. However, they were not justified in their decision to punish Steven simply for attempting to exercise his rights, since he did not break any rules during the day of protest.

Hair Length -

First, Ninth and Fourteenth Amendment Rights

The question of a student's right to wear long hair presents the greatest confusion. The Supreme Court has refused to hear any cases on this issue, and the Circuit Courts of Appeal, the lower courts, are split on whether the Constitution prohibits hair-length requirements in the schools. When hair-length regulations are challenged as unconstitutional, the challenge is usually based upon the First or Ninth Amendments the Due Process Clause of the Fourteenth Amendment or the right of privacy (a right developed from analyzing the purpose and intent of the first Ten Amendments); and sometimes the Equal Protection Clause of the Fourteenth Amendment. However, in many cases, free speech claims cannot be made simply because the student is wearing his hair long because it is fashionable or because he likes it.

The cases that have *upheld* the hair regulations have argued that the regulation bears a reasonable relationship to a valid objective, and therefore, does not violate the Due Process Clause. These objectives are usually to maintain order in school, promote discipline and decorum, or to teach a respect for authority and discipline. For example, in *Gere vs. Stanley*, the Third Circuit Court of Appeals upheld a suspension for a violation of a hair-length regulation. The court said that, in this case, the school was disrupted when students refused to sit near Jerald Gere because his hair was dirty and because, when he ate in the cafeteria, his hair would get in the food, and, as he would fling back his hair, other students would be splashed with it. The court noted that a regulation requiring clean hair would have the same effect as the hair-length regulation, but that the court would not substitute its opinion for that of the school officials. Other reasons for upholding hair-length regulations are that the injury to the student is too small and that no substantial constitutional right has been violated.

In *Karr vs. Schmidt*, the Fifth Circuit Court of Appeals analyzed the claims of constitutional protection for hair length. The court found: that hair length is not protected by the First Amendment because it lacks communicative value and is usually only a personal choice; that there was no due process violation because schools are allowed to make rules that infringe on their students' liberty (for example, limiting where students can park cars); that the right of privacy was not violated because hair is worn in the open and does not concern a matter that occurs only in the home; and that the Equal Protection Clause was not violated because that clause requires only a rational reason for distinguishing between boys and girls because sex is not a suspect classification.

In *New Rider vs. Board of Education of Indian School District No. 1, Oklahoma*, three Pawnee Indian junior high school students were suspended for wearing their hair in long braids. The evidence tended to show that, traditionally, Pawnees did not wear long hair and that the students were participating in a movement, popular among the young, to show a pride in their Indian heritage. The school argued that rules are necessary to

create an "environment of learning" and that hair-length regulations in particular help to develop school spirit, pride and maturity. The school also provided evidence that schools with short-hair requirements have better scholarship than schools without regulations and that having different grooming standards for different ethnic groups is not a workable situation. The court, after hearing these arguments, held that a rule requiring short hair has a reasonable relation to the state's objectives. It said hair length is not pure speech and is not protected. It also said that schools should not have to deal with each person's personal beliefs and wishes in developing regulations.

Other courts have *overturned* hair regulations for different reasons. One court said there is no explanation that justifies allowing schools to have such paternal control over their students. Some courts have said long hair is part of a due process right to govern one's own appearance; others have said it's a right but refused to label it. In *Massie vs. Henry* (455 F 2d 779), the Fourth Circuit Court of Appeals found the choice of hair length to be a right and the only justification for regulating hair length to be a need for discipline and safety. The court then held that the disruptive effects in this case were insufficient because the faculty could help to promote an atmosphere of tolerance. The need for safety was not considered important because of the availability of protective devices such as hair nets.

"I don't like the looks of this."

- ☐ What are the cartoonist's views toward younger people and the police?
- ☐ What are your views about the attitudes of the police and young people toward each other?
- ☐ Can you think of a program which might encourage regular communications between the police and the young? Does your community have such a program? Do you consider it to be successful?

In *Crews vs. Cloncs* (432 F 2d 1259), the school defended its first decision to bar a student from gym and biology classes (a long-haired student aroused amusement and disgust in other students, making it difficult to maintain order in a classroom) and its later decision to not admit him to school because of safety hazards in participating in sports and in using a bunsen burner because of disruptions that had occurred in school. These disruptions were students peering into a biology class to see if Crews was still there. Crews' difficulty in getting a lab partner, and Crews' presence causing both a strain on the teacher's relation with other students and causing a distraction for other students. The court decided that it was unfair to punish Crews for other students' disruptive behavior. It also decided that boys were being denied equal protection under the law since girls could participate in gym and biology classes without cutting their hair.

Student and Locker Searches - Fourth Amendment Rights

In the case of the constitutionality of searches in the schools, a major question has to do with who made the search. If a *policeman* or other *government agent* makes a search that violates the requirements of the Fourth Amendment, the evidence he finds cannot be used in court. However, if the search is conducted by a school official, the courts must decide if he or she is acting as a private person (which means that the evidence can be used in court, even if the search violated a student's constitutional rights) or as a government agent. There are two other justifications for searches in the schools. If the school officials search a student's lockers, the search may be considered constitutional because a student has the right to keep only other students out of his locker, not school officials who never gave up the right to examine the locker when they assigned them to the students. The second justification is that school officials have a relationship with the students similar to a parent-child relationship and therefore have the right and duty to inspect the lockers and the students themselves. In some cases, the courts seem to use a lower standard of reasonableness to justify a school search than is used for adult searches because of the special obligations and duties placed upon school officials.

Although there are almost no federal court cases on this issue, a few states have made judicial rulings on searches by school officials. A California court analyzed

its view of the issue in *In re Christopher W.* (29 Cal App 3d 777). In this case, four students told an assistant principal that there was a package of marijuana in a locker. The assistant principal opened the locker, found marijuana and determined that the locker had been assigned to Christopher W. In the juvenile court proceedings, Christopher's attorney moved to exclude the marijuana as evidence because it was found as the result of an illegal search. The court said that the test for searches by school officials involves two questions. First, is the search within the scope of the school's duties? Second, is the search reasonable under the facts and circumstances of the case? In this case the court found the prevention of marijuana use to be within the school's duty and verification of the report by a search was reasonable under these facts.

Expulsion, Suspension and Corporal Punishment - Eighth and Fourteenth Amendment Rights

A few courts have been called on to analyze the constitutionality of corporal punishment under the Eight and Fourteenth Amendments. In *Sims vs. Board of Education of Indep. Sch. Dist. No. 22* (329 R. Supp. 678), a student sued to stop the use of corporal punishment after he was paddled for taking a template from a crafts room. It was claimed corporal punishment violated the Due Process and Equal Protection Clauses of the Fourteenth Amendment because it is summary punishment without an opportunity to be heard because it is arbitrary, capricious, and not reasonably related to an educational purpose, and because it caused substantial and lasting harm out of proportion to the gravity of the situation. The court answered that there is no due process violation because the purpose of corporal punishment is reasonably related to the purpose of promoting decorum in the schools and the effectiveness would be minimal if the school officials had to have formal proceedings before they could paddle a student. The court found no equal protection issue if some students are paddled while others are punished differently because each situation is unique. The punishment was also found not to be cruel and unusual because the physical harm is so slight. Another court, in *Glaser vs. Marietta* (351 F. Supp. 555), upholding corporal punishment, said if the parents have the right to physically punish their children, then the same type of punishment cannot be constitutionally forbidden when used by a person to whom the right had been delegated. In addition, the due process requirements of notice and hearing had been met by the preliminary talk between the student and the principal before the punishment was administered. However, the court noted that, in this case, the mother did not want the principal to use corporal punishment on her child. Therefore, the school could not use corporal punishment on her son because it would violate her fundamental right to raise her child as she saw fit.

When a student is threatened with expulsion or suspension, he or she is entitled to the procedural due process protections or receiving notice of the charges and of an opportunity to be heard because a student has a protected interest in continuing his or her education. The question in cases involving expulsion or suspension is what specific protections are necessary. Should an attorney be present? Should one be appointed at state expense? Can students compel witnesses to appear on their behalf? What degree of proof is necessary before the school officials can take disciplinary action? Courts have always said that the requirements of due process differ with different situations, and in these cases, courts have not found the requirements of due process to be the same as the requirements in a criminal trial. Some states have laws that specify the procedure to be taken before a student can be expelled or suspended. These laws provide how notice shall be given to the student and parents and how the hearing shall be conducted.

Some courts also find the constitutional requirements differ when it is a case of suspension rather than expulsion or when the period of suspension is long or short because less protection is necessary when lesser punishments are involved. As one judge said in *Baker vs. Downey City Board of Education*, 307 F. Supp. 517, "the school officials were charged with the conduct of the educational program and if the temporary suspension of a high school student could not be accomplished without first preparing specifications of charges, giving notice of hearing, and holding a hearing or any combination of these procedures, the discipline and ordered conduct of the educational program and the moral atmosphere required by good educational standards would be difficult to maintain." However, a different court of appeals held in *Betts vs. Board of Education of City of Chicago*, 466 F. 2d. 629, that even when the student admitted the wrongdoing, she was entitled to a hearing so that she could provide arguments on her behalf before she was given a punishment similar to expulsion, especially since the choice of punishments was within the officials' discretion.

The case of Deborah Lynn Cleaves in *Hobson vs. Bailey*, 309 F. Supp. 1393, shows how these due process considerations can arise in school actions. Deborah, a class officer and an honor student, participated in a boycott of classes to rally support for a municipal employees' union and for N.A.A.C.P. efforts to obtain satisfaction of certain complaints about the Memphis school system. After missing four Mondays of school in October and November and participating in a walkout

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of classes on Tuesday, November 12th, Deborah was placed on "Home Suspension" for cutting classes and leaving school without permission. Deborah was notified that she had to return to school within three days accompanied by a parent to be readmitted to school. While on three-day suspension, she continued to support the Black boycott and appeared in demonstrations. At this point, Deborah and her mother went to the required meeting with her school officials but were told that Deborah had been placed on "Board Suspension" for picketing in front of the school. Deborah and her mother then went to the Board of Education, where they were told why she was suspended, that she would not be allowed to return to school and the alternatives open to her. After this meeting, Deborah participated in other protest and was arrested at one demonstration for disorderly conduct. The probation officer told her if she would agree to settlement out of court without a hearing, she could return to school. Deborah agreed, but was not readmitted, and other efforts to re-enroll her in her school were unsuccessful. Finally, in December, Deborah was given permission to enroll in one of two other schools that had had no demonstrations. In January, Deborah and her attorney were granted a hearing. At that hearing, the board upheld its December decision, and Deborah and her attorney then filed suit. The court held that the Board suspension was justified by Deborah's regular and repeated absences from school which interferred with the educational processes, but that the discipline was not properly administered. At the time Deborah and her mother had the meeting at the Board of Education, Deborah was denied her constitutional rights under the Fourteenth Amendment because the nature of the charges were not explained to her, because the school official did not have Deborah's complete record before him, because there was no method of review provided as a matter of right, and because she was not told how to get a more complete hearing. However, the meeting in January did meet the due process requirements because Deborah had an opportunity to present a defense by being advised of the witnesses against her and by being able to present witnesses on her behalf.

Instructions

Divide the class into six or seven groups; choose students in each group to represent the parties in each situation — student, parent or parents, teacher, school administrator and observer. Have each group prepare to act out a different one of the incidents described below. The observer should not participate in the preparation for the role play.

While the simulations are being performed in each small group, the observer should watch what is happening and answer the following questions: Was the student treated fairly? Why or why not? Were any constitutional rights violated? If a similar situation arose outside of school, would the action taken be unlawful? What was the attitude of each person in the skit? What motivated each person in the skit to act as he did? Was the role play realistic?

After the role-playing is completed, students in each small group should discuss what happened with the observer acting as the leader. Following these discussions, those who had roles of students should lead off a general class discussion by describing the events that occurred in their group. This large discussion is the most important part of the entire activity and should not be rushed. At the final stage the instructor can serve as discussion leader.

1 Bill Haskins is a high school student who was reported to the principal for wearing his hair longer than school regulations allowed. Bill's parents, Bill and the teacher are called into the principal's office to discuss the matter.

2 Carol Stern had written an article on birth control for the high school paper. The journalism teacher referred the article to the principal who decided that it should not be printed. Carol complained to her parents who then made an appointment to meet with the principal and teacher.

3 James Collier wanted to discuss the possible presidential impeachment in his U.S. History class. The teacher refused to allow the discussion, and James challenged her decision. He was then reported to the principal's office for insubordination.

4 The eleventh-grade class voted to hold a demonstration to protest a cutback in school funds for athletic programs by carrying signs in front of the school during lunch and after class hours. The class officers and the advisor meet with the principal to discuss the proposed demonstration.

5 The school librarian, fed up with the large number of overdue books, had the custodian open all the school lockers to retrieve library books that were overdue. In Nancy Lee's locker, the librarian noticed a packet of marijuana. He reported this to the principal. Nancy and her parents are called into the principal's office where the police are already discussing the matter with the librarian and the principal.

6 Steve Gertman's teacher reported Steve to the principal for talking in class for the fifth time in one week. The principal, on receiving the fifth report, called Steve into his office and announced that he is suspended from school pending a parent conference. Steve, his parents, the teacher and the principal meet to discuss the suspension.

7 Martha Martin had been caught smoking in the bathroom. She was brought into the vice principal's office and paddled. Later that day, Martha and her parents meet with the vice principal and teacher who found Martha smoking.

Clark, Todd, Editor, "Students Rights," Bill of Rights in Action, Constitutional Rights Foundation, Los Angeles, California, Fall 1974, pp. 23-27.

The Safe School Study

- **How Serious is the Problem of Crime, Violence, and Vandalism in the Schools?**
- **How Many People are Affected?**
- **When and Where Do Incidents Take Place?**
- **Who Are the Victims and the Offenders?**

The Safe School Study

Because hard facts and information on the extent of school crime, violence, and vandalism were lacking, Congress requested in 1974 that the Department of Health, Education, and Welfare (HEW) conduct a major scientific study of this problem. The actual work of designing and administering the study was done by the National Institute of Education.

The study was carried out in three phases. Phase I involved mailing a questionnaire to 5,578 public school principals who were asked to report details of school crime, violence, and vandalism for selected one-month periods between February 1976 and January 1977. Phase II consisted of questionnaires filled out by principals, teachers, and students in 851 junior and senior high schools. Phase III allowed the researchers to visit ten schools throughout the country with a history of school crime, violence, and vandalism. At these schools the researchers conducted interviews with students, teachers, administrators, and other school personnel. The results of all the data gathered in these three phases were published in a report last January titled *Violent Schools—Safe Schools*. The "Safe School Study" represents the most dependable effort so far to answer the four main questions about school crime, violence, and vandalism which are listed at the beginning of this article.

How Serious?

How serious is the problem? According to the "Safe School Study," "One answer is, considerably more serious than it was 15 years ago, and about the same as it was 5 years ago." At the present time, the nation generally seems to be going through a leveling-off period. School crime, violence, and vandalism may even be starting to decline, at least in some areas.

About 8% of the nation's schools are currently experiencing a "serious problem." This percentage may seem small, but it represents 6,700 elementary and secondary schools. The problem is most serious in large city schools where 18% of the junior highs and 26% of the senior highs report having serious problems. However, the greatest *number* of seriously affected schools (68% of the total) are actually located in suburban areas. This is due to the fact that more schools exist in suburbs than in the big cities. Thus, although the problem appears to be concentrated in urban schools, crime, violence, and vandalism—according to the "Safe School Study"—". . . is a problem that affects large numbers of schools in every type of location."

Teenagers spend about a quarter of their time in school. Do the facts from the "Safe School Study" mentioned above indicate that schools are actually unsafe places? The answer is a qualified "yes." Depending, of course, on the particular school a teenager attends, the risk of violence is generally greater to him or her there than any other single place. About 40% of all robberies and 36% of all assaults against teenagers happen in schools. This is especially true for younger students, aged 12-15.

Vandalism, the intentional destruction of school property, is also a measure of the seriousness of school crime. The "Safe School Study" states that 24,000 elementary and secondary schools out of a total of 84,000 report some act of vandalism each month. Although the average cost of a single act of vandalism is only $81, the cost of repairing and replacing school property because of the activity of vandals is $200 million a year. When the cost of guards and security devices is figured in, the cost rises to about $600 million a year.

The present school crime situation has never been worse; but what are the long-term trends? The study found a pattern of increasing assaults, robberies, and vandalism taking place in the schools in the late 1960s and early '70s. But, the frequency of these criminal acts had leveled off by 1975. The problem does not seem to be getting worse. In fact, there are indications of improvement. But crime, violence, and vandalism in the schools "is as serious as it has ever been."

How Many?

Students and teachers are the primary victims of school crime and violence. How many of them are affected? The percentages are small, but it should be remembered that it takes only a few attacks, robberies, or thefts at school to increase the fear level among students and teachers.

Among students, theft is the most common crime at school. About 11% of all students—that is 2.4 million young people—have something stolen from them at school each month. Most thefts involve small items or amounts of money less than $10.

A much smaller percentage of students (1.3%) are attacked each month at school. But, attack victims still number nearly 300,000 students monthly. While most attacks are minor

and probably involve simple fighting. 42% result in some injury. About 4% of the attack victims require medical attention. Another significant fact about school attacks is that twice as many take place in junior highs than in senior highs.

About one-half of 1% of public school students are the victims of robbery or extortion ("shakedowns") each month. This amounts to over 100,000 students. However, 76% of these robberies and extortions involve sums of money less then $1. "Hey kid, gimme a quarter," is an example of a typical schoolyard petty extortion. Nevertheless, 11% of all robbery/extortion incidents result in an injury to the victim. Again, this type of crime is more common in junior high schools.

The percentage of teachers victimized in the schools is similar to that of students:

- 12% or 130,000 are theft victims each month;
- less than 1% or 5,200 are attacked in one month, most without serious injury;
- one-half of 1% or 6,000 are robbed monthly.

In addition, teachers were asked about rape incidents against female teachers at school. It appears that about 400 teachers are raped each month at school, although this is a rough estimate.

As with student victims, teachers are more likely to become victimized in junior high schools.

More than just the victims themselves seem to be affected by crime and violence in school. Students and teachers were asked about their "fear level" while at school. About 3% of all students surveyed reported that they were afraid of being hurt or bothered at school "most of the time." An additional 20% said that they were afraid "sometimes." Over 10% of the teachers stated that they had been threatened with injury by students, and a similar percentage reported holding back from confronting misbehaving students because of fear.

These figures do undercut somewhat the claims of many sensational news media stories about school crime and violence. But, the problem does exist; it is serious; and in many schools it interferes with the teaching and learning process.

When and Where?

The "Safe School Sudy" was able to establish definite patterns of when and where school crime, violence, and vandalism typically take place.

The personal crimes of theft, assault, and robbery occur most frequently during regular school hours. This should not be a surprise, since both the offenders and their victims are close together. An interesting pattern, however, develops during the week. Generally, crimes against persons occur infrequently at the beginning of the school week, increase to a maximum on Wednesday, and then taper off during the remainder of the week. Also, thefts, assaults, and robberies tend to take place more often in the spring.

Most school property offenses such as breaking and entering, burglary, and vandalism occur on weekends or before and after school on weekdays. School property crimes are highest when school opens in the fall, and then they gradually decline in number during the rest of the school year.

An important finding of the "Safe School Study" was that the safest place for students to be at school is in the classroom. On the other hand, there are numerous unsafe areas. The riskiest place for students are the hallways and stairwells. Other danger spots at school are restrooms, cafeterias, locker rooms, and gyms. By way of contrast, the least safe place for a teacher is his or her own classroom. This is the case because many teachers probably are in their classrooms alone before and after school as well as during lunch.

When and where school crime happens is important to know since this information allows the schools to develop effective crime prevention measures. As far as students are concerned, this means "Stay in class!"

Victims and Offenders

Most acts of school crime, violence, and vandalism are committed by students who are currently enrolled in school, not by outsiders or drop-outs as some people have thought. Interestingly, both student victims and offenders very often have similar characteristics. Moreover, in many cases student victims are also offenders as well. Teacher victims characteristically have more difficulty getting along with students.

The typical victim of an attack or robbery at school is a male 7th grader who is victimized by a boy his own age. There are several possible reasons why younger students in junior high are more likely to be school crime victims as well as offenders. First, early adolescence is a difficult and disruptive age. Also, young teenagers very often have yet to learn acceptable social behavior. In addition, many youngsters, after having left their neighborhood elementary schools, come into contact with other youths from different backgrounds and neighborhoods for the first time. Finally, keeping these physically active young people together within the confines of a two- or three-grade school may make trouble inevitable.

As stated earlier, student victims and offenders frequently are one and the same. They tend to belong to the same group or groups at school. Academically, both student victims and offenders tend to have low grades and high failure rates. They also dislike school, other students, their classes, and the principal.

Teachers are also victimized more often at the junior high level. The risk seems to be the same regardless of the age or sex of the teacher. Teacher attitude and behavior are, however, more important. Teacher victims usually have had more hostile encounters with students than teachers who have not been victimized. This may indicate that at least some acts of crime and violence directed against teachers could have been brought on by the teachers themselves. Another characteristic of teacher victims is that they often teach big classes with large numbers of low ability students.

It should be clear by now that junior highs, not high schools, are at the center of the school crime, violence, and vandalism problem. Yet, for some reason, more money and resources are spent at the high school level to provide for school security.

A Nationwide Problem

The "Safe School Study" concluded that school crime, violence, and vandalism is a serious nationwide problem. Furthermore, the study recommended that something should be done about this problem. Later in this issue you will read about what

some people—including students themselves—are doing to control and reduce school crime, violence, and vandalism so that teaching and learning can take place in a safe environment.

Activities for Discussion and Writing

1. Choose one of the four questions which appear at the beginning of this article, develop a topic sentence answer, and then write a supporting paragraph using information from the article. Your teacher may want you to do this for all four questions. Or, you may be instructed to work in a group and prepare a group response to one of the questions and then report your findings to the class orally.

2. Form small groups. Each group should prepare 10 true-false questions using the facts from this article. Hand the set of questions your group develops to your teacher, who will then use them along with those prepared by the other groups for an oral round-robin type quiz to see which group is able to answer the most questions.

3. Re-read the section, "When and Where?" Based on the information in

Violence and School Desegregation

Does racial desegregation increase school violence? Here are the basic conclusions stated in the "Safe School Study" report, ***Violent Schools—Safe Schools:***

"Court-ordered desegregation is associated with slightly higher levels of violence in schools, but there is no relation between the numbers of students bused for desegregation purposes and school violence, and there is suggestive evidence linking violence to the recency of initial desegregation efforts. Taken together, the data suggest that while the beginning of the desegregation process is associated with some increase in violence, things quiet down as time goes on and the process continues.

• • •

"Contrary to some research findings, our data indicate that the chances of violence are not greatest in substantially integrated schools (40% — 69% white), but [are] at least as great in schools in which either whites or racial/ethnic minority students are numerically predominant; there is some suggestion that risks may be highest for minority students in white schools and white students in minority schools.

WHAT ARE THE CAUSES?

"Various explanations can be offered for the increased amount of school violence and vandalism in the middle-to-late sixties and early seventies. In general, these were times of protest and discontent, particularly among young people. The protest against the war in Vietnam, together with black militancy, ghetto riots, and a growing youth movement were all prominent features of the time. Protest and discontent, of course, are not the same as violence and vandalism.

• • •

"Underlying much of the discontent among young people in this period may have been an important demographic change. The trends in school crime and disruption suggest that there may be some relation between these problems and the size of the youth cohort (statistical group) in the 1950s, 1960s, and 1970s. As "baby boom" children became adolescents in the late 1950s and especially in the 1960s, the amount of disruption in schools increased. . . . As the crest of the wave passed and the size of the cohort decreased in the 1970s, the amount of disruption leveled off and may be showing modest signs of decline. According to this line of thought, both the greater number of students in the 1960s, and the size of this cohort relative to the rest of the population and to schools, may have been factors in the growth of disruption in the schools."

—Violent Schools-Safe Schools

this section, what general kinds of crime prevention measures should schools, students, and teachers take to protect themselves?

4. What is a crime at school? And, what school crimes should be reported to the police? Copy the following list of acts on a separate sheet of paper. Place the letter "C" next to those acts which you consider to be crimes when they are committed on a school campus. Go over your list again and place the letter "P" next to those crimes you have marked which you feel school officials should report to the police. When you are finished, discuss your marked list with another student; or, you may want to do this as a group activity. By a class vote, determine which acts the majority of students consider to be crimes when committed at school, and which of these should be reported to the police. What are some consequences if relatively few of these acts are reported o the police?

a. a schoolyard fight occurs between two boys, neither of whom is seriously injured
b. a schoolyard fight occurs between two boys in which one suffers a broken nose
c. a student sets a trash can on fire
d. a 9th grader demands and gets 25c from a 7th grader at lunch time
e. a 9th grader and a group of his friends demand protection money of 25c a day from a group of 7th graders
f. a teacher grabs the arm of a disruptive student in order to remove him from her classroom; the student slugs the teacher with no serious injury to her
g. the same incident as above except the teacher suffers a broken arm
h. a student is caught smoking marijuana in a restroom
i. a student is caught drinking wine in a high school parking lot
j. a girl is caught by her physical education teacher stealing money from another girl's gym locker; the girl promises never to do such a thing again

Recommendations of the "Safe School Study"

The "Safe School Study" recommended 18 measures "that can usefully be undertaken by local school districts and schools" to counteract crime, violence, and vandalism. These 18 recommendations are summarized below.

1. The problem should be recognized for what it really is, not understated out of pride or fear.
2. A school or district-wide assessment of the problem may be required in order to gather necessary facts to act on the problem.
3. If the problem is a serious one, it should be handled as an important priority by the district administration and school board.
4. School personnel can do a lot to reduce crime, violence, and vandalism.
5. Local resource persons—parents, social workers, the police, judges, etc.—should be involved in dealing with the problem.
6. Firm, fair, and consistent discipline, plus a system of rewarding students for different kinds of accomplishment, are important things to establish on a school campus experiencing serious problems.
7. The role of the principal "is the key in schools which are seriously affected." Such schools require principals who have strong leadership abilities.
8. The principal should be a "role model" who should put in long hours, be visible and available to all, and not delegate the maintenance of discipline to others.
9. Teachers should be given training for making schools safe. This should include training in effective classroom management.
10. Since small classes are associated with a decreased incidence in school crime and violence, more teachers should be hired in schools seriously affected in order to reduce class sizes.
11. Schools having problems should become more "personalized." The school enrollment should be lowered; the principal should become more available to students; teachers should spend more time teaching continuous classes with the same students.
12. More relevant courses as well as alternative schools and programs should be made available to students.
13. "Down the line support" from the school board, district administration, parents, and the community are important in order for students to develop a positive "school spirit" necessary to reverse school crime problems.
14. School security personnel who are hired for daytime service should receive human relations training, and should function as peacekeepers and even as counselors.
15. Schools with major violence problems should monitor areas such as hallways, stairwells, and cafeterias, where violence is most likely to occur.
16. Serious problems should be reported to the police more often, and school recordkeeping in these matters should be improved.
17. School officials and local judges should coordinate their efforts more effectively.
18. School security devices should be evaluated and purchased carefully to meet the specific needs of the schools.

Clark, Todd, Editor, "The Safe School Study," Bill of Rights in Action, Constitutional Rights Foundation, Los Angeles, California, September 1978, pp. 13-16.

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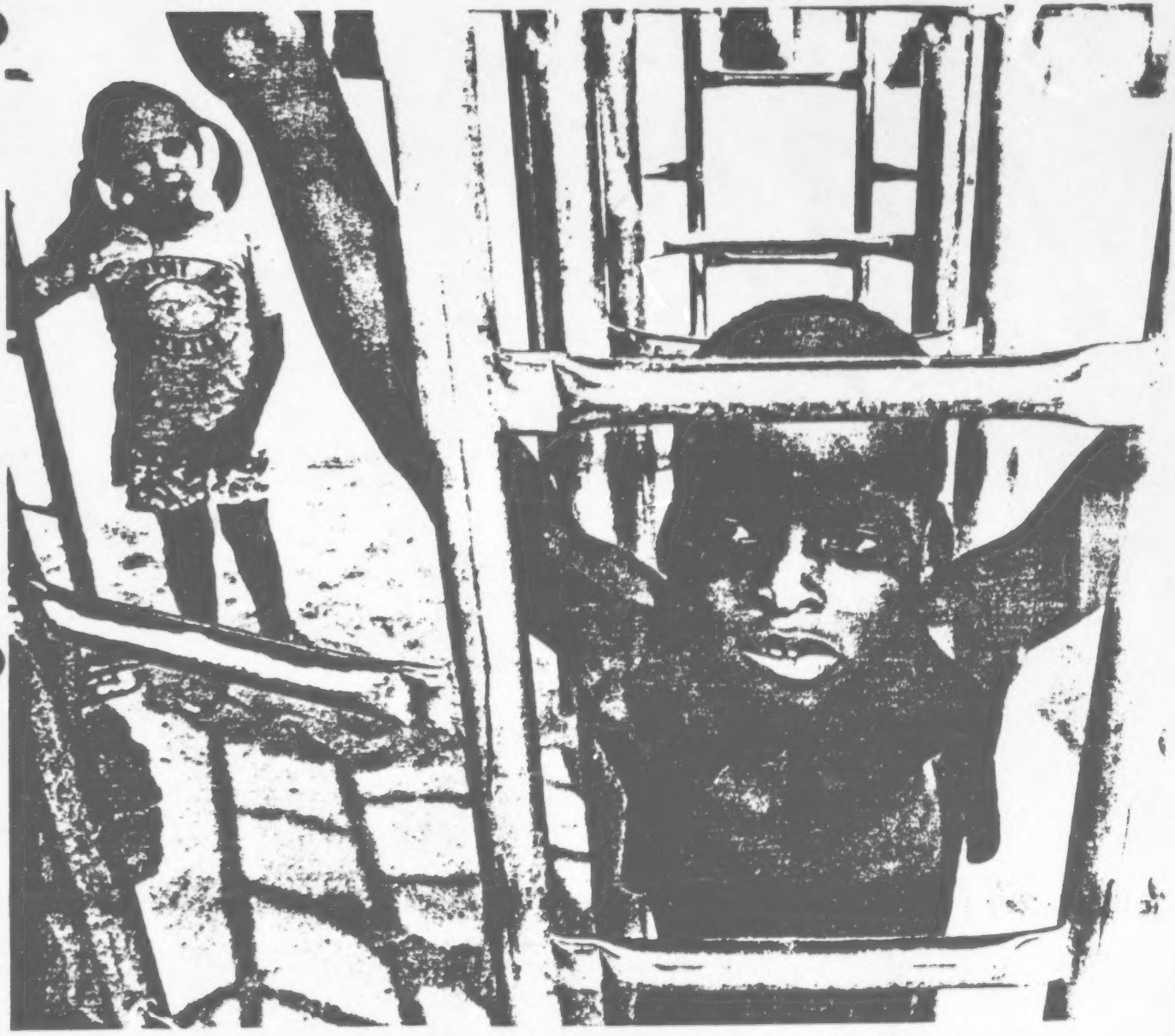

CLASSROOM STRATEGIES

David Naylor

Teaching About Student Rights and Responsibilities

What every student (and teacher) should know

Student rights and responsibilities is a hot topic in our society. Within the past 10 years, court decisions have helped transform it from a largely ignored and discredited subject to a subject of vital importance, capable of arousing strong emotions among students, parents, teachers, and school administrators.

Despite (or perhaps because of) its pervasive and volatile character, teachers often give student rights and responsibil-

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ities a wide berth in the classroom. Some think it's unworthy of discussion, too frivolous and too far removed from "important" subject matter to be given valuable class time. Others see it as too controversial for classroom discussion, a veritable Pandora's box capable of inflaming student passions and engendering community wrath. And still others imagine that it is too complex to deal with intelligently, requiring more knowledge than teachers can be reasonably expected to have.

In actuality, student rights and responsibilities is neither too frivolous, too controversial, or too complex. Properly handled, the subject can illuminate a host of vital issues and become an integral part of the school curriculum. Here's a structure for dealing with student rights and responsibilities, a range of issues and approaches that can be used to teach students about this topic effectively.

A Rationale

Perhaps the best response to the question, "Why should I teach about student rights and responsibilities?" is simply, "You should teach about it because it's too important to ignore." Student rights and responsibilities is an excellent vehicle for helping students clarify and critically examine some of the most basic values of our society, some of the most fundamental characteristics of our legal system, and some of the most important developments of our society. Furthermore, as Alan Levine and Eve Carey observe in their very informative and useful book, *The Rights of Students* (Avon Books, 1977), students spend a large part of their lives in and around schools.

> [T]he policies that govern the school have as much impact on students' lives as most policies formulated by the President and Congress have on the lives of adult citizens. It is as important, therefore, for students to be able to discuss school policies openly as for adults to be able to debate freely issues of national policy.

Student rights also serve as a vehicle "for exploring moral and ethical reasoning, and for fostering a search for effective ways to deal with contemporary value conflicts." (*Values, Law-Related Education and the Elementary School Teacher*, NEA, 1976.) By studying the evolution of student rights and responsibilities, students become more aware of how change occurs and more capable of understanding the importance of change in the life of our country. By using student rights and responsibilities as a focal point, teachers can help students understand everything from constitutional law to administrative regulations, from judicial review to judicial remedies.

And *you* can teach about student rights and responsibilities. A growing number of books, journals, articles, and other resources—both print and nonprint—are available. I've noted a number of them in this article. And many law-related courses and workshops deal with student rights and responsibilities. One way to find out what's available in your area is to contact the ABA's Special Committee on Youth Education for Citizenship (YEFC), at 1155 E. 60th St., Chicago Ill. 60637.

We have come too far, learned too much, and produced too many resources for the myth of legal complexity to serve as an effective deterrent. The remainder of this article, therefore, is designed to suggest an approach to teaching about student rights and responsibilities and to provide examples of a variety of teaching strategies that you can put to work in your classroom.

1.

Issue One

Classification or Capacity?: Do Students Have Rights?

Before looking at student rights cases, teachers should provide a broader perspective. The development of student rights can be described as the move from a classification to a capacity, an evolutionary history which has much in common with other groups in American society. For example, in the famous case of *Dred Scott v. Sandford* (15 L. Ed. 691 [1857]), the Supreme Court defined the legal status of a slave. Speaking for the Court, Chief Justice Roger Taney wrote:

> The only matter in issue before the court, therefore, is, whether . . . [slaves] are citizens of a State, in the sense in which the word "citizen" is used in the Constitution of the United States. . . .We think they are not, and that they are not included and were not intended to be included under the word "citizen" in the Constitution, and can therefore claim none of the rights and privileges which that instrument provides for and secures to citizens of the United States.

Depriving slaves of rights accorded to citizens was not an isolated instance. As a result of being classified as "women," "juveniles," "prisoners," and "students," other groups have been denied the constitutional rights of citizens.

The importance of being classified in such a way is that once you're included in the group, the issue of rights becomes moot; it is no longer germane. It is not surprising, therefore, to find that in the landmark case involving student rights, *Tinker v. Des Moines Independent School District* (393 U.S. 503), Justice

Abe Fortas, writing for the Supreme Court, acknowledged this legacy. He wrote:

> In our system, state-operated schools may not be enclaves of totalitarianism. School officials do not possess absolute authority over their students. Students in school as well as out of school are "persons" under our Constitution. They are possessed of fundamental rights which the State must respect, just as they themselves must respect their obligations to the State.

The movement of students from a classification to a capacity, a history shared by the other groups listed above, reveals one of the most fundamental characteristics of our legal system and of our life as a country—the concept of change. By studying student rights and responsibilities from this perspective, students increase their ability to understand the society in which they live and the kinds of concerns, value conflicts, and mechanisms that are part of how society changes.

Sample Lesson One

Topic: Do Students Have Constitutional Rights?

Strategy: Conflicting Quotations

Procedures:

1. Give each student a copy of the Fortas quote and the two quotes below.

> [T]he constitutional rights of adults and juveniles are not coextensive.... "The state's authority over children's activities is broader than over like actions of adults".... [T]he conduct of minors may be constitutionally regulated to a greater extent than that of adults.
>
> Federal District Court Judge Sheridan in *Bykofsky v. Borough of Middletown* (1975)

> It is abundantly clear from the development of law over a period of two centuries or more that the relationship of the state to children is a parental one. . . .[T]he state stands in *loco parentis* to children in school. Thus a child has no more right to defy the school than he does to defy his own parents.
>
> Federal District Court Judge Young in *Cordova v. Chonko* (1970)

2. Discuss each quotation, using such questions as:

> How are the words "child" and "adult" defined in your state (e.g., in Ohio, a "child" is a person under the age of 18.)
>
> In what ways does the law provide different treatment for "children" and "adults"? (e.g., contracts, property, inheritance, capacity to commit crimes. See Alan N. Sussman, *The Rights of Young People* [Avon Books, 1977] for further information.)
>
> To what extent are parents free to impose rules and regulations on their children? Should Bill of Rights protections apply to family members in the privacy of the home?
>
> In what ways could the school be said to act *in loco parentis* (in the place of parents)? How do the roles of parent and school differ? Should Bill of Rights protections apply in the school?

3. Use a piece of oaktag or chart paper to prepare a chart, then ask students to compare and contrast the legal obligations of adults, parents, children, school officials, and students. Encourage them to suggest reasons for similarities and differences, and write their responses for each of these five groups. Display in a prominent place in the room and refer to it as the unit progresses.

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2.

Issue Two

Competing Interests: Which Should Be Given Preference?

Since the Constitution of the United States contains no direct reference to education, the states have assumed the power to control and regulate it. But the actual administration of schools in almost every state is delegated by statute to local districts. In this way, local school boards and school officials acquire the authority to make the rules and regulations which govern the day-to-day operation of the schools.

Under common law, however, parents had control over the education of their children. While state statutes have modified parental authority, parents continue to have many educational obligations. On occasion, parents and state officials have disagreed on children's education. For example, parents who want to educate their children at home may well run afowl of state compulsory education laws.

The wishes of children themselves have been ignored for the most part. School conflicts typically deal with disputes between parental wishes and state wishes. Yet the very nature of our educational system suggests that at least three interests are at stake—those of the state, those of the parent, and those of the child. The following exercise is designed to help students focus on the potential conflict between these three interests. The essential question raised is, "When conflicts arise, which interests should be given preference?"

Sample Lesson Two

Topic: Which Interest Should Be Given Preference?

Strategy: Forced Choice

Directions: Each of the areas listed below is of significance to students, their parents, and the school. For each, indicate which of these three groups you believe should have the right to decide if a conflict develops. Place an "x" in the appropriate space to indicate your response.

Who Should Control . . .

1. Access to a student's report card?
   Student____Parent____School____
2. Attendance at school?
   Student____Parent____School____
3. Choice of the type of elementary or secondary school to attend?
   Student____Parent____School____
4. Access to student scores on an I.Q. tests?
   Student____Parent____School____
5. Selection of what courses or subjects to study?
   Student____Parent____School____
6. Nature of the course content?
   Student____Parent____School____
7. Type of instructional materials used?
   Student____Parent____School____
8. Access to a student's locker?
   Student____Parent____School____
9. Use of corporal punishment?
   Student____Parent____School____
10. Participation in the flag salute?
    Student____Parent____School____

Procedures:

1. Distribute a copy of the exercise to each student. Review and clarify directions (and items if necessary).

Classroom Strategies

2. Use a show of hands to tally student responses. Record them on the chalkboard.
3. Group items under appropriate categories and discuss results obtained. Encourage students to share reasons for their choices.
4. Have students suggest criteria for determining when each of the interests (student, parent, school) should be given priority.

3.

Issue Three

Conflict and Controversy: What Role for the Courts?

Since the famous *Brown v. Board of Education* decision in 1954, state and federal courts have become increasingly involved in school matters. The *Tinker* case in 1969 gave greater impetus to this trend. More and more, such school issues as busing, finance, appearance of students, and expression of students and teachers are being decided by the courts.

Dramatic and controversial remedies have resulted. These have included placing a Boston high school under judicial control because of school desegregation problems and briefly shutting down the entire educational system in the state of New Jersey until the state legislature enacted a more equitable system of school finance.

The dilemma confronting the courts was discussed by Supreme Court Justice Abe Fortas in *Epperson v. Arkansas* (393 U.S. 97[1968]), the decision which invalidated that state's anti-evolution statute. He wrote:

> By and large, public education in our Nation is committed to the control of state and local authorities. Courts do not and cannot intervene in the resolution of conflicts which arise in the daily operation of school systems and which do not directly and sharply implicate basic constitutional values. On the other hand, "[T]he vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools."

"Lay off, Your Honor. I'm not half so heinous once you get to know me."

Student rights issues provide an excellent opportunity for teaching about judicial review and the role of the courts. Examining these issues can be used to further students' understanding of such fundamental concepts as federalism, the separation of powers, and the meaning of "government of law."

Sample Lesson Three

Topic: What Role for the Courts?
Strategy: Semantic Differential
Handout: Courts and Schools: How Do You Feel?

> Have the courts taken over control of our schools? Some people suggest that they have. For example, court decisions have forced many schools to alter their dress codes, discipline policies, and rules governing access to athletic facilities. How do you feel about court decisions that force schools to change some of their rules and regulations? Indicate your views by placing an "X" on one of the spaces between each of the paired words below. Use only one "X" for each pair of words.

Wise	_ _ _ _ _ _ _	Foolish
Democratic	_ _ _ _ _ _ _	Autocratic
Necessary	_ _ _ _ _ _ _	Unnecessary
Fair	_ _ _ _ _ _ _	Unfair
Desirable	_ _ _ _ _ _ _	Undesirable
Warranted	_ _ _ _ _ _ _	Unwarranted
Comforting	_ _ _ _ _ _ _	Disturbing
Helpful	_ _ _ _ _ _ _	Harmful
Successful	_ _ _ _ _ _ _	Unsuccessful

Procedures:

1. Distribute a copy of the exercise to each student. Clarify instructions and provide sufficient time for students to complete the exercise.
2. Reproduce the exercise on the board or on a transparency. Tally and record student responses.
3. Discuss student responses. (Note: This exercise can be used before or after investigating this issue. If you do it before, encourage students to express their feelings and to develop hypotheses to be tested as the unit progresses. If you do it afterwards, ask students to cite specific examples to support their views.)
4. Use student responses to explore such questions as:
   If education is a state function, how is it possible for federal courts to rule on cases involving school rules and regulations?
   Does judicial review give too much power to the courts? How (if at all) should judicial review be restricted?

4.

Issue Four

Students and the First Amendment: What's Permitted?

In the landmark *Tinker* case, the Supreme Court held that:

> First Amendment rights, applied in light of the special characteristics of the school environment, are available to teachers and students. It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.

Yet in that same decision, the Court also recognized the right of school authorities "to prescribe and control conduct in schools." "Our problem," the Court stated, "lies in the area where students in the exercise of First Amendment rights collide with the rules of school authorities."

You can illustrate the difficulty of this problem by focusing on specific clashes over First Amendment rights. While many different teaching strategies can be used to examine such conflicts, two are recommended especially.

One approach is to focus on a specific situation, through use of an actual or hypothetical case. The case study method is an example of this approach, a variation of which is provided in "Sample Lesson Five" in this article. An article in the Fall, 1977 *Update* describes this method in detail. The article is especially useful since it focuses on the *Tinker* case.

The other approach uses a series of critical instances, either real or hypothetical. Examples of this approach include the forced choice exercise below and the question and answer technique, examples of which may be found in *The Rights of Students* and other titles in the American Civil Liberties Union Handbook Series.

Sample Lesson Four

Topic: How Has the First Amendment Been Interpreted in the School Setting?
Strategy: Forced Choice
Directions: Each of the following situations deals with student claims to First Amendment rights. Indicate your beliefs about each of these situations by using one of the following responses. Place the appropriate letters in the space provided to the left of each situation.

SA = Strongly Agree
SD = Strongly Disagree
A = Agree D = Disagree
U = Uncertain

_____ 1. Students have the right to speak out in the classroom whenever they wish to make their own views known.
_____ 2. Students have the right to wear buttons, armbands, and other insignia which represent their views.
_____ 3. Students have the right to picket, hold rallies, and engage in peaceful demonstrations during school hours to protest school policies.
_____ 4. Students have the right to distribute literature on school property free from any type of censorship by school officials.
_____ 5. Students have the right to publish articles in the school newspaper that criticize school policies and/or school officials.
_____ 6. Students have the right to place messages, notices, and other material on school bulletin boards to express their views.
_____ 7. Students have the right to form their own clubs and associations no matter how controversial the organizations are.
_____ 8. Students have the right to refuse to salute the American flag.
_____ 9. Students have the right to publish whatever they wish in school-sponsored newspapers.
_____ 10. Students have the right to refuse to participate in any religious ceremonies conducted in school.

Procedures:
1. Give each student a copy of the exercise. Clarify the instructions and provide ample time for students to complete it.
2. Tally student responses. Encourage students to express reasons for their choices.
3. Have students identify some of the reasons why school officials might oppose student claims (e.g., interference with the proper and orderly operation of the school; risk of violence or disorder; age and maturity of students; captive nature of students; invasion of the rights of others; desire to impose moral standards). Ask students to indicate which factors apply in each situation and to assess their value.
4. Use resources such as Levine and Carey's *The Rights of Students* to make students aware of how the courts have ruled in each of these situations.
5. Invite the school principal, superintendent, school board attorney, and other resource persons to discuss these issues with the class.

5.

Issue Five

Students and Due Process: What's Required?

The Fifth and Fourteenth Amendments guarantee that no person shall "be deprived of life, liberty, or property without due process of the law." Assuring a fundamental fairness in government proceedings, the right of due process protects the citizen against unfair, unreasonable, and arbitrary laws (substantive due process) and unfair, unreasonable, and arbitrary proceedings (procedural due process).

Once students are recognized as citizens, the question becomes whether the constitutional rights of due process apply in the school setting. Gradually, though often reluctantly, courts have been saying that they do. However, court decisions are by no means uniform.

For example, no clear guidelines have emerged on whether students' hair length or clothes can be regulated. Some federal courts of appeal (the First, Second, Third, Fourth, Seventh, and Eighth Circuits) have said that wearing one's hair at a certain length or wearing a beard is constitutionally protected. Other federal courts of appeal (the Fifth, Sixth, Ninth and Tenth) have not been receptive to this claim. The result is a confusing set of standards which vary according to the circuit court district in which the school is located.

Guidelines for procedural due process, however, are more clearly established. The Supreme Court's decision in *Goss v. Lopez* (419 U.S. 565 [1975]) did much to clarify students' rights to procedural due

process in schools, although troubling questions still remain.

Sample Lesson Five

Topic: Are Students Entitled to Due Process in Disciplinary Proceedings?
Strategy: Case Study Method *(Goss v. Lopez)*
The Facts

During a period of widespread student unrest in the Columbus, Ohio public school system, school administrators suspended many students for disruptive or disobedient behavior. The suspensions were for 10 days. School officials refused to give students a hearing to determine the facts underlying the suspensions.

The students contended that they had been treated unfairly. They argued that school officials had erred by depriving them of their right to an education without a hearing to determine the accuracy of the charges. That denial, they charged, violated their Fifth and Fourteenth Amendment right to due process.

The school officials disagreed. They declared that neither the U.S. Constitution nor the Ohio Constitution guarantees the right to an education at public expense. Thus, they pointed out, the Due Process Clause does not apply to suspensions or expulsions from school. Furthermore, they suggested that even if the Due Process Clause does protect a right to public education, it comes into effect only when the state subjects a student to a "severe detriment or grievous loss." Since the loss of 10 days of school is neither severe or grievous, the Due Process Clause does not apply to these cases.

The Issue

Does the Due Process Guarantee require school officials to grant a hearing to students before suspending them for 10 days?

The Opinions

Opinion I

1. Education officials and state legislatures—not federal courts—have the authority to determine rules that apply to routine classroom discipline.
2. Since Ohio law creates the right to a free public education, Ohio law may also create the circumstances under which that right may be restricted or taken away.
3. Education in any meaningful sense includes teaching each pupil the necessity of rules and the need to obey them. The school fails the student if it does not properly discipline him when punishment is merited or if its disciplinary actions are so formalized that they invite a challenge to the teacher's authority.
4. A decision to require due process procedures for school suspensions would turn the teacher-student relationship into an adversary process. Such a decision could seriously impair the ability of school officials to maintain order and decorum.
5. The argument that a student's interest in education is infringed by short suspension is too speculative and too insubstantial to justify imposing a constitutional rule.
6. If student claims were upheld, due process protections would likely be held next to apply to many other routine school decisions (e.g., grading, promotion, curriculum requirements).
7. If due process is required in these instances, then it is required whenever government infringes *any* interest to which a person is entitled, no matter what the interest or how inconsequential the infringement. This would give courts a vast power, a whole new role in our society.

Opinion II

1. By establishing a public school system and requiring children to attend, Ohio has recognized that a student has a right to a public education. This right is a property interest which is protected by the Due Process Clause.
2. The Due Process Clause also forbids arbitrary actions which deprive a person of his liberty. If sustained, these charges could seriously damage the students' standing with their fellow pupils and their teachers, as well as interfere with later opportunities for higher education and employment.
3. A 10-day suspension is not a trifling matter and may not be imposed in complete disregard of the Due Process Clause. It is a serious event in the life of the suspended child and of serious consequence to his reputation.
4. At the very minimum, students facing suspension must be given *some* kind of of notice and afforded *some* kind of hearing. A student must be given oral or written notice of the charges against him, and if he denies them, an explanation of the evidence and an opportunity to present his side of the story. Due process requires at least these basic precautions against unfair findings and arbitrary suspension.
5. Students whose presence poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process may be immediately removed from school. In such cases, the necessary notice and basic hearing requirements should follow as soon as practicable.
6. The Due Process Clause does *not* require that hearings in connection with short suspensions give the student the opportunity to secure counsel, to confront and cross-examine witnesses supporting the charge, or to call his

own witnesses to verify his version of the incident.

7. Longer suspensions, or expulsions for the remainder of the school term or permanently, may require more formal proceedings.

Procedures: (For variations of the case study method, see David T. Naylor, "Law Studies in the Schools: A Compendium of Instructional Strategies," *Social Education,* March, 1977, pp. 174-76.)

1. Present the facts and state the issue in *Goss v. Lopez* (either orally or in written form).
2. Distribute a copy of Opinion I to half the class and a copy of Opinion II to the other half.
3. Instruct students to read each of the seven arguments in the respective opinions and then rate each argument on basis of its strength. Use a 1-5 scale for this purpose, with 1 = very strong and 5 = very weak.
4. Discuss the issue raised in *Goss v. Lopez.* (You may wish to divide the class for this purpose.) Use a show of hands to ascertain how the class feels the case should be decided and how it feels the case was decided by the Supreme Court. Discuss.
5. Use student rankings to assess and analyze the strengths of the arguments advanced in Opinion I and Opinion II.
6. Since the Court decided in favor of the students, ask the class to evaluate the predictions made in points six and seven in Opinion I.

6.

Issue Six

Students and the Courts: What Lies Ahead?

The development of student rights in the past 10 years has had an important impact on schools. However, many issues need further clarification. How many of the constitutional rights of adults should be extended to students?

In the following exercise, several student rights issues, as yet unclarified, are presented in a hypothetical format. Students are asked to assume the role of judges and decide these questions. The exercise is designed to help students become aware of possible developments in student rights in the future.

"You're taking this truth-in-advertising business a little too seriously, Higgins."

Sample Lesson Six

Topic: What Lies Ahead?
Strategy: Hypothetical Situation

How Would You Decide?

1. Mark Duffy is a senior at Polk High School. Upon graduation, he plans to attend a very prestigious college in the East. That college has admitted Mark on the condition that he succeeds in getting at least "B" grades in all of his courses during his last semester at Polk.

   At the end of the semester, Mark receives 3 "A's", 2 "B's" and a "D" in American History. Very disappointed, Mark meets with the history teacher and principal in an effort to change the grade. He complains that the teacher's grading policies were arbitrary and unfair.

   Furthermore, Mark points out that he did not know he would get this low grade until the course was over. He failed the final exam and got a "D" on his term paper, which was returned only two days before the class ended. Mark's efforts to get the grade changed fail. Without a grade change, Mark will not be able to attend the school of his choice. Feeling that his entire future is in jeopardy, Mark takes the matter to court, charging that his right to due process has been violated. If you were the judge, how would you decide? Are students entitled to due process protections in the assignment of grades?
2. Carla Crane graduated from the Monroe City Schools. She was an average student, received average grades, and never had a serious discipline or attendance problem. On many occasions Carla's parents were told that her academic performance was satisfactory and that she needed no special or remedial instruction.

   Unfortunately, Carla found that she could not get a job. When her parents had her tested by a team of educational specialists, it was discovered that Carla was a functional illiterate. She could only read and write at the fourth-grade level. Given special tutoring by these specialists, her performance improved considerably within only a few months.

   Carla and her parents believe that school authorities have been negligent. They sue the school for failing to use reasonable care in providing Carla with adequate instruction, guidance, and supervision. If you were the judge, how would you decide? Is the school system liable for damages?
3. Cary McDonald and Charles Young are seventh-grade students at Buchanan Junior High School. They are upset with a Board of Education decision which removed several controversial novels from the reading list in their English course. The Board decision not only removed the books from the list, it also forbade teachers from accepting any of the books for academic credit. Cary and Charles argue that their right to academic freedom has been violated. They take this matter to court. If you were the judge, how would you decide? Do students have a right to academic freedom?

Procedures:

1. Divide the class into groups of three. Give each group one of the situations above.
2. Ask students to pretend that they are judges on the federal court of appeals. Instruct them to read the facts of the case assigned to them and to reach a decision. Indicate that they should

provide written reasons for their decisions.

3. When students have reached their decisions, have student "courts" report the results of their deliberations to the class. Compare and contrast decisions and reasons for those decisions.
4. Encourage students to suggest possible consequences of those decisions (e.g., What limits, if any, would they establish? What effect would the decision have on teachers and students?)
5. Reassemble students into groups of three. Have each group write at least one hypothetical case involving a possible student rights issue in need of clarification (e.g., locker searches, rights of elementary students, etc.) Discuss student responses.

7.

Issue Seven

What Obligations Do Students Have?

Many educators stress the importance of student responsibilities and bemoan their lack of acceptance. Seldom, however, do educators provide opportunities for students to discuss these responsibilities. The exercise below suggests one way this might be accomplished. The items are based upon the 1974 NCSS Position Statement on Student Rights and Responsibilities. (See *Social Education*, April, 1975, pp. 241-45.)

Sample Lesson Seven

Topic: How Important a Responsibility?
Strategy: Rating Scale
Directions: Listed below are a number of different responsibilities that students are said to have. Indicate the importance of each by circling the appropriate number on a five-point rating scale, where 1 = Important and 5 = Not Important.

1 2 3 4 5 A. To attend school regularly.
1 2 3 4 5 B. To take care of school property.
1 2 3 4 5 C. To conform to school rules and regulations.
1 2 3 4 5 D. To accept the consequences of one's own behavior.
1 2 3 4 5 E. To volunteer information to school officials upon request.
1 2 3 4 5 F. To refrain from interfering with the education of other students.
1 2 3 4 5 G. To be courteous to school officials and fellow students.
1 2 3 4 5 H. To do one's school work conscientiously.
1 2 3 4 5 I. To avoid encouraging other students to engage in inappropriate behavior.
1 2 3 4 5 J. To respect the opinions and ideas of others.

Procedures:

1. Distribute a copy of the exercise to students and clarify directions for its completion.
2. Tally and then discuss student responses. Encourage students to suggest other responsibilities they might have.
3. Discuss such questions as: (a) what is the relationship between student rights and responsibilities? (b) Should rights and responsibilities vary with age—e.g. should they be the same for primary students as for high school students? (c) How are responsibilities determined?
4. Use this exercise to help students assess the degree to which they meet their responsibilities. Suggest the exercise be titled, "How Responsible Am I?" and the rating scale be changed to 1 = Always and 5 = Never. In order to respect student privacy do not collect or tally student responses.

"He says he doesn't know how long she's been missing, but it was sometime after football season started."

A Few Last Thoughts

Will teaching about student rights and responsibilities be as predictable as teaching about the Smoot-Hawley Tariff? Probably not, but it will be a great deal more lively. Your students will probably be truly interested in the topic, and they (and you) will have a lot more fun with it than with Smoot and his cohorts.

You can probably defuse any potential controversy by following a few common sense rules. Don't let yourself be perceived as an advocate of student rights (or of administrative control, for that matter). Make it clear that you're teaching about student rights *and* responsibilities. Your job is to raise these issues to clarify students' thinking, not to lead them to the barricades. Make sure all sides have a chance to be heard, including the school administration.

The subject is so compelling, the learning opportunities so numerous, that teaching about student rights and responsibilities can surely be justified as part of your professional duty. And if you're professional about how you go about it, you should have clear sailing. □

NAYLOR, David, "Teaching About Student Rights and Responsibilities," Update on Law-Related Education, Fall, 1979, pp. 14-16 and 43-47.

"Firm, Fair, and Consistent"

Classroom Activities on School Discipline

The classroom activities presented in this section have been developed from the findings of the "Safe School Study" discussed throughout this issue of *Bill of Rights In Action*. Moreover, the activities have been designed to help students and others involved with the schools to clarify their views about school discipline, as well as how discipline should be administered.

"THIRD ASSAULT TODAY — JUST ABOUT NORMAL FOR A USUAL SCHOOL DAY"

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Mario's Suspension

The bell ending their period had just rung and the class, all ninth graders, began to lunge for the door. "Hold it!" said the teacher. "Get back in your chairs. My wallet is missing. I put it right here on my desk after nutrition, and now it's gone."

The teacher, *Mrs. Parnell*, who was 48, got the class settled and demanded that her wallet be returned. No one said a word. Mrs. Parnell then began to walk up and down the rows of desks looking inside student notebooks, poking into girls' purses, and checking coat pockets. She suspected everyone.

At one point, as Mrs. Parnell was busy searching a student, another student across the room, *Jay*, stealthily slipped Mrs. Parnell's wallet onto the book rack under the seat of the desk in front of him. *Gloria* saw him do this but could care less. She just took out a stick of gum from her bag and casually dropped the wrapper on the floor.

Finally, Mrs. Parnell spied her wallet beneath *Mario's* chair. She immediately accused him of stealing. Mario, protesting his innocence, told Mrs. Parnell that he did not know where the wallet had come from. "I didn't steal it!" he said, with panic creeping into his voice.

Mrs. Parnell dismissed the class. Bored with the whole business, Gloria walked out of the classroom saying nothing.

On the way to the vice principal's office, Mrs. Parnell told Mario, "I should have known it was you; you've always been a troublemaker." Mario tried to explain that someone else must have put the wallet under his seat, but Mrs. Parnell refused to listen. "Shut up!" she said.

Mr. Jackson, age 38, was the vice principal in charge of discipline at the school. He spent most of his day—every day—talking to students who had been sent to him for fighting, smoking, talking back to teachers, throwing milk in the cafeteria, and for many other offenses big and small. It was not even lunch time and Mr. Jackson was already tired. At this moment, Mrs. Parnell brought Mario into his office.

"I caught this thief red-handed," she told Mr. Jackson triumphantly. "He stole my wallet and then lied to me about it," she continued. "I want him out of my class!" Mrs. Parnell then left to go back to her classroom, muttering to herself about how the students were much worse today compared to those she had taught when she first came to the school nearly 30 years ago.

Wearily, Mr. Jackson asked Mario what had happened. Obviously not believing his story, the vice principal told Mario that he was going to suspend him for five days. "You're lucky that I don't report this to the police," he told the trembling boy. "We have a lot of stealing going on at this school and I don't want the police and the school board to get the idea that we can't handle it," he said. Half talking to himself now, Mr. Jackson grumbled, "I'm not going to let the likes of you jeopardize my chances of getting to be a principal in this district."

Mario, shaken by his suspension, could not believe that this was happening to him. After leaving Mr. Jackson's office, he decided to see the principal, *Mr. Day*. Mario went to Mr. Day's office and asked his secretary if he were in.

"Yes," the secretary replied, "but he's just about to leave for his Tuesday service club luncheon; and this afternoon he will be working on the school budget." At this moment Mr. Day came out of his office.

Mario, still numbed by his experience, decided to speak to Mr. Day on the spot. "What's the problem?" Mr. Day asked. Mario then excitedly and not too clearly began to tell the principal what had happened to him.

"Suspended for five days?" interrupted Mr. Day. "Well, that's Mr. Jackson's business. I don't have anything to do with discipline," he told Mario.

Mr. Day then turned to his secretary and told her that he would be back around 2 o'clock. Then, without

looking at Mario, he left.

Despite a 10-minute "hearing" the next day with his parents and Mr. Jackson, the vice principal reaffirmed Mario's suspension. "I've got to take the teacher's word," Mr. Jackson told Mario's parents.

For three days Mario brooded and grew more and more angry over the unfairness of his suspension. Mario then thought of a way to get back at the school.

On Saturday night Mario went to the deserted school and found his way to Mrs. Parnell's classroom, which faced an outdoor courtyard. Making sure that no one was around, Mario broke one of the windows as quietly as he could. He then slipped into the classroom and proceeded to spraypaint everything in sight: student desks, the chalkboard, the ceiling, cabinets, books, floor, papers, bulletin board, even photographs of Mrs. Parnell's grandchildren.

Mario climbed out of the classroom without being seen, and began running. As he ran past the administration building, he noticed Mr. Jackson's office, which faced the street at the front of the school. Without stopping, he heaved the empty spraypaint can through Mr. Jackson's window. As he heard the glass breaking, Mario laughed to himself and thought, "That'll show 'em."

Instructions

1. The standards people live by in their treatment of others should be important to all of us. There are six main characters in the story you have just read. Rank these characters, 1 to 6, from "best" to "worst" according to how well they supported standards of fairness, honesty, respect for the rights of others and for property through their actions.

2. Compare your ranking with that of one or two other students.

3. Take a class poll to determine which character most students feel is the "best" in the story, and which character they feel is the "worst." As you do this, discuss the reasons for your choices and the standards you believe are important.

4. In what ways could Mrs. Parnell, Mr. Jackson, Mr. Day and Mario have acted differently toward each other?

5. What evidence exists in the story that Mario's school has a serious crime, violence and vandalism problem? Based on the information given in the story, why do you think this school is having so much trouble?

The Disciplinarian

Discipline is handled by various persons in different schools. In some schools, student misbehavior is dealt with by the principal. In other places, one or more vice principals or student deans are charged with maintaining school discipline. Sometimes counselors have this as part of their responsibility.

Regardless of who acts as a school's disciplinarian, he or she has a difficult job. Moreover, *how* the disciplinarian does his or her job has a lot to do with whether or not a school runs smoothly or has constant trouble.

In the role-playing simulation which follows, one student from your class will play the part of a school disciplinarian. Others will role-play students in trouble, parents, teachers, and other school personnel. The job of the disciplinarian in each case will be to decide what should be done with a student who has broken a school rule or even a criminal law. You are to assume that a hearing has already taken place which has established the guilt of the student.

The alternative disciplinary measures available to the disciplinarian are listed below. You may want to discuss them with your teacher so that you know what each one involves. They are:

Warning, paddling, after-school detention, school or community service, restitution, suspension, transfer to another school within or outside the school district, transfer to an alternative or continuation school, expulsion, referral to the police, or referral to the juvenile court.

One student should volunteer to be the "disciplinarian." He or she should remain in this role for *all* the cases. The job of the disciplinarian will be to ask the persons involved in each case what they think should be done with the student who has misbehaved in some way. The student in each case will have a chance to speak in his or her own behalf last. After all have had a chance to speak, the disciplinarian will choose one of the measures or punishments from the list of alternatives above, and then announce it to the class. At this time the class should discuss the disciplinarian's decision.

After all the cases have been decided, evaluate the simulation by discussing questions such as these:

1. Was the disciplinarian "firm, fair, and consistent"?

2. Which case was role-played the most realistically?

3. Should any of the disciplinary measures listed above not be used in your school?

4. At what point should a school disciplinarian turn over a student to the police or juvenile court?

Finally, your class may want to invite your principal or others involved in administering discipline at your school to observe the simulation and discuss how they would handle the cases.

Case No. 1—Theft

A tenth-grade girl was caught by her physical education teacher stealing $5 from another girl's gym locker. The girl admits doing this, but says she did it on a dare from friends. The teacher has been trying to stop a whole series of thefts which have taken place around the girls' gym area.

Role Players: teacher; girl's father and mother; girl caught stealing

Case No. 2—Vandalism

A ninth-grade boy was caught by a security guard spraypainting graffiti on a school wall at 11 p.m. on a school night. The boy has been in constant trouble at school since the fourth grade, at which time his parents divorced. The boy now lives with his mother, who is on welfare. Removal of the graffiti will cost approximately $200.

Role Players: security guard; boy's mother; boy caught vandalizing

Case No. 3—Extortion

An eleventh-grade boy and gang member was overheard by a custodian extorting money from a ninth-grader. The custodian heard the boy say to the younger student, "Give me my daily dollar. I want to go to lunch." The boy has an extensive juvenile arrest record for minor offenses, and is now on probation for shoplifting. He lives with a foster family.

Role Players: custodian; ninth-grade extortion victim; boy's foster mother; boy caught extorting money

Case No. 4—Fighting

A senior and a junior got into a fight over a scratched car door. The junior started the fight when he attacked the senior for hitting and scratching his car in the school parking lot. When the fight was broken up by a school security guard, both boys had bloody noses and assorted minor cuts and bruises. The junior who started the fight is known as a school troublemaker and has been in many school fights. His father is an ex-Marine who feels that his boy should stand up for his rights.

Role Players: security guard; senior attack victim; junior's father; junior who started fight

Case No. 5—Marijuana Smoking

A tenth-grade girl was caught smoking marijuana in a restroom by a counselor. The girl has failed most of her classes in high school, is frequently truant, and runs around with a gang of girls who are suspected of being responsible for many of the thefts which have been occurring at school.

Role Players: counselor; girl's mother and father; girl caught smoking marijuana

Case No. 6—Arson and Assault

The day before spring vacation an eleventh-grade boy was caught setting a trash can afire. The eleventh-grader was caught by a young boys' physical education coach, who grabbed the student and started shoving him toward the administration office. The boy, however, took a swing at the coach, hitting him in the eye. The coach needed three stitches to close the wound caused by the student. The boy is at the top of his class academically; he plays varsity basketball and he is planning to run for student body president. He has never been in trouble before, either with school authorities or the police. Next year he hopes to get an appointment to the Air Force Academy.

Role Players: coach; boy's mother and father; principal; boy who set trash can afire and hit a coach

Public Voting

Public voting stimulates lively discussion and debate by having students make their choices openly for all to see.

1. Chairs and desks should be moved against the walls. The class should then form a single line down the middle of the classroom. This is the "neutral zone."
2. The students will be given a series of "either-or" choices. Each time this is done, the students must individually decide to walk either to one side of the room (first choice) or to the other side of the room (second choice). Thus, the students will be publicly voting with their feet.
3. The students may decide to pass on any choice. A student who passes should stand in the "neutral zone."
4. After each public vote, the students can literally see where their classmates stand on an issue. Discussion after each vote should be encouraged, but not forced.
5. The following public voting choices have been drawn from the materials presented in this issue of *Bill of Rights In Action*.

a. *If you had a choice, would you prefer to go to school in a large city (first choice) or in a rural area (second choice)?*

b. *Would you say your school does (first choice) or does not (second choice) have a serious crime problem?*

c. *What kind of teacher would you prefer: one who is very strict (first choice) or one who is very lax (second choice)?*

d. *Would you prefer a school disciplinarian who is "firm, fair, and consistent" (first choice) or one who is "weak, unfair, and arbitrary" (second choice)?*

e. *Do you think that there are too many rules at your school (first choice) or too few (second choice)?*

f. *What would you say is a larger cause of school crime, violence, and vandalism: poor discipline in the home (first choice) or unfair treatment of students by teachers and administrators (second choice)?*

g. *Which school would you least want to attend: a school with a lot of gang activity (first choice) or a school with a lot of racial conflict (second choice)?*

h. Would you call throwing a firecracker at school a prank (first choice) or a crime (second choice)?

i. Do you think littering should (first choice) or should not (second choice) be classified as school vandalism?

j. Should students caught fighting at school be dealt with by the school disciplinarian (first choice) or turned over to the police (second choice)?

k. When a teacher is hit by a student, should he or she forget it (first choice), or charge the student with assault and battery in court (second choice)?

l. Which student is worse: a student who steals from other students (first choice) or one who steals from or vandalizes your school (second choice)?

m. Would you prefer to go to a school which was racially mixed (first choice) or to a school in which all students were the same race as you (second choice)?

n. Which act of vandalism do you consider to be worse: breaking school windows (first choice) or spraypainting graffiti on school walls (second choice)?

o. Which do you think would be the better way to control crime, violence and vandalism at your school: hire [more] security guards (first choice), or enforce school rules more strictly (second choice)?

p. If you already have security guards at your school, do you think that they are largely effective (first choice) or of little value (second choice)?

q. Do you think that providing cash incentives for students as a way to cut down on school vandalism is a good idea (first choice) or a bad idea (second choice)?

Clark, Todd, Editor, "Firm, Fair and Consistent," Bill of Rights in Action, Constitutional Rights Foundation, Los Angeles, California, September 1978, pp. 17-19.

Questions and Answers — About the Privacy Rights of Young People

cpf

1. Do Minors have a right to privacy?

In general, the same laws and rights which protect the privacy of adults apply to minors. For example, a police search of a child's pockets or of a teenager's car must be based on "probable cause." But, there are some significant limitations on the privacy rights of minors when parents and school authorities conduct searches.

2. May parents search their children at will?

The courts have long recognized a special relationship between parents and their children, and have been very reluctant to interfere. As a result, parents may search their children, their living and sleeping quarters, and their possessions for any reason, or no reason at all.

3. Do school authorities have a right to search a student's locker or personal property such as a purse without a search warrant and without his or her consent?

Many court cases have arisen over school searches, but the U. S. Supreme Court has yet to decide a case which establishes rules applying to the whole country. Nevertheless, the majority of lower state and federal court decisions throughout the country do seem to allow school authorities to search lockers and student possessions without search warrants or student consent. In reaching this conclusion, most courts point to the fact that school officials have a special burden to protect the learning environment and to provide for student safety and welfare. The courts say that this special burden should exempt schools from the rules the police must follow in conducting searches. However, school authorities do apparently need some kind of "reasonable suspicion" before going ahead with a locker or student property search. This is less than the "probable cause" which is required before the police may make a search.

4. Is it legal for school authorities to frisk a student or search his or her clothing?

On the grounds that school authorities have a responsibility for the safety and welfare of students, as well as to maintain school discipline and order, most courts agree that students may be frisked and their clothing searched. Again, however, school authorities must have some reason to suspect a student of some law or school rule violation before he or she may be searched.

5. Must students submit to "strip searches" at school?

Occasionally, school authorities demand that students take off their clothing in order to be more thoroughly searched. These cases are rare, and it is not clear how legal they are. It depends on what court decisions have been made in your state. A New York court did allow the strip search of a fifth grade class whose members were marched off to the boys' and girls' restrooms where the youngsters were ordered to strip down to their underwear in a search for missing money.

Clark, Todd, Editor, "Questions and Answers About the Privacy Rights of Young People," Bill of Rights in Action, Constitutional Rights Foundation, Los Angeles, California, September 1979, p. 21.

Course and Grade Level: Seventh to Ninth Grades
Social Studies, English and Advisory Classes

Topic: UNDERSTANDING BASIC LEGAL CONCEPTS

Topical Question: What legal concepts do students need to know to be able to understand daily occurrences in the news?

Content: Through this lesson the students will be able to designate the difference between civil and criminal law and will be able to identify key legal concepts through the use of definitions and examples.

Time Required: Two to three class periods

Resources:

Materials: Newman, Jason, and Edward O'Brien, Street Law, 1st Edition, St. Paul, West Publishing Co., 1975, Ch. 1, pp. 1-19.

Nonelli, Rebecca and Carl Martz, Criminal Justice Teaching Guide, New York: Scholastic Book Services, 1978, p. 16.

Riekes, Linda and Sally Mahe, Juvenile Problems and Law, 1st Edition, St. Paul: West Publishing Co., 1975, pp. 21-22.

Objectives: At the end of the lesson the students will be able to:

1. Distinguish the difference between civil and criminal law.
2. Explain the difference between the adult and juvenile justice systems.
3. Define and give examples of the following legal concepts: adversary system, crimes, felony, delinquent, misdemeanor, status offense, and U.S. Constitution.
4. Explain the role of the court in interpreting the meaning of legal concepts.

Procedure: 1. Write the following quote by Will Rogers on the board:

> The minute you read something and you can't understand it, you can be sure it was written by a lawyer....Every time a lawyer writes something, he is not writing for posterity. He is writing so endless others of his craft can make a living out of trying to figure out what he said.

Ask the students what they think Will Rogers is trying to say. Do they have a difficult time understanding legal terms used in the newspaper or on news broadcasts? Discuss how every profession has its own terminology and the importance of understanding basic legal terms used in their daily lives.

2. Write the following statute on the board:

> Any person who utters loud and offensive or profane or indecent language in any public street or other place to which the public is invited is a disorderly person.

Ask the students what they think "offensive language" means. What do they think the legislators who wrote the statute meant? Who would decide if a person has violated this statute? Who interprets the meaning of legal words? Can words be interpreted in different ways?

3. Write the following statements on the board and explain to the students that there are two types of law: civil and criminal. Briefly explain the difference between them. Civil law does not deal with crimes. A crime is committed when a law is broken. Have the students decide which statement involves civil or criminal law.

   a. If you damage someone's property with your car during an accident, you must pay him or her for the damage.
   b. If you use your car to purposely kill someone, you may be charged with murder.
   c. If you wish to marry, you must take a blood test and then obtain a marriage license.
   d. If you marry more than one person at a time, you may be charged with bigamy.
   e. If you obtain a loan to buy a car and fail to pay back the bank, the car may be taken from you.
   f. If someone promises to put a new roof on your house and then takes your money and disappears, that person may be charged with theft.

Have the students write a definition of civil and criminal law and list other examples of civil and criminal law in their daily lives.

Civil Law - all areas of law that do not involve criminal matters. They deal with private rights of individuals, groups, and businesses. They describe what people can do if they feel they have been wronged by another person, business or government.

Criminal Law - Describes crimes and the penalties for committing them. Court action is brought by the state. This is different from civil law, in which actions are brought by individuals or groups.

4. Explain the purpose of the juvenile court system by presenting "Should There Be A Juvenile Court?" (copy attached)
5. Write the following legal concepts on the board. Pass out "Examples of Legal Concepts Worksheet" (copy included) and, as a class, match each legal concept with the correct example. Discuss each example. Have students write a definition of each legal concept.

   Adversary System - A term for our system of justice in which the prosecuting attorney tries to establish the guilt of the defendant and the defense attorney tries to show errors in the prosecution's argument.

   U.S. Constitution - the supreme law of the land.

   Delinquent - a juvenile who is judged by the court to be in need of treatment by the corrections system.

   Status Offense - A non-criminal act by a juvenile. The same act committed by an adult would not be cause for arrest.

   Felony - a serious crime which is punishable by more than one year in a jail or prison.

   Misdemeanor - a less serious crime. It is punishable by a fine and/or imprisonment in county jails, but not in state prison.

6. Have students complete worksheet on types of crime. (Copy attached.) Types of crime are referred to daily on the news. Discuss and define crimes listed.

Evaluation: 1. Have the students read the following problem and answer questions:

Mat and Luther, both age 15, decide to play hookey from school to go fishing. They take Luther's brother's car without telling him and drive to the city park. Ignoring the "No Fishing" sign, they park the car near a pond and begin to fish.

While they are fishing, someone steals the hub caps off the tires, as well as the tape deck and radio. The thief also sprays green paint all over the yellow car.

As some people do when fishing, Matt and Luther doze off to sleep. They are awakened by a police officer telling them in a loud voice that they are under arrest.

a. Have Matt and Luther broken the law?
b. What laws have been broken?
c. Are the laws criminal or civil?
d. Who would have original jurisdiction in this case?

2. Have students give an example of each of the legal concepts discussed in a written exam.

SHOULD THERE BE A JUVENILE COURT?

LESSON 6

Objective:

Students should discuss the pros and cons of the idea of having a juvenile court.

How old were you in 1967?

Have you changed much since then?

The law doesn't change as fast as you do, but it is continually changing. Juvenile courts and the juvenile legal procedures have changed since the time juvenile courts first began.

The time is 1875. If you lived in 1875, what would it be like? Besides not having cars, what else wouldn't you have?

_____

_____

_____

Why didn't these things exist in 1875?

Do all of these things help society?

Do any of these things cause problems? (Example: cars cause pollution and accidents.)

In 1875, there were no juvenile courts or juvenile detention centers. Any child who committed a crime could be sent to an adult prison. No special treatment was given to young people. They were treated just as if they were adults who had committed crimes.

Many people were upset that children were being treated so badly by the legal system. They met together in Chicago in 1899 to write the first juvenile code in order to protect young people from being treated just like really tough adult criminals. The

juvenile code said that young people in Illinois under a certain age would go to a special juvenile court. The aim of this court would be to HELP rather than to punish the child. From the juvenile code adopted in Illinois in 1899, the system has spread into every state. The Illinois Family Court Act reads:

> "The children as far as practicable . . . shall be treated not as criminals but as children in need of aid, encouragement, and guidance."

What does the statement mean?

Things are usually different in real life than what they are supposed to be. Today, the workings of the juvenile courts may be imperfect and have a lot of problems. But they are supposed to give a child more helpful treatment than he or she would get in an adult court. Do you agree with this idea in PRINCIPLE (in principle means "is supposed to") even though it may not be put into practice? Do you think juveniles should be treated the same as adults who commit crimes? Read these opinions of other young people and decide what you think about this question. ?????

SHOULD JUVENILES BE TREATED JUST AS IF THEY WERE ADULTS WHO COMMIT CRIMES?

"Yes, because when you are 17 you are almost an adult and should take the responsibility of an adult—By taking the punishment you deserve for committing the crime."

"If a child is given more mercy, he or she will be able to rehabilitate."

"Yes, if they are going to be committing crimes that adults do, then they shall be treated like adults."

"An adult should know better than a child who commits crimes. A child would be learning right from wrong. As for an adult, she or he should already know."

WHAT DO YOU THINK?

Riekes, Linda and Sally Mahe, Juvenile Problems and Law, 1st Edition, St. Paul: West Publishing Co., 1975, pp. 21-22.

EXAMPLES OF LEGAL CONCEPTS WORKSHEET

Example	Legal Concept	Definition
1. After a hearing, a judge found that Mary, aged 14, had committed several crimes. He sent her to a special facility for girls.		
2. During a trial, the prosecution attorneys presented evidence to the jury to prove that the defendant was guilty. The defense argued that this evidence was inadequate to show that his client was guilty.		
3. Segregation laws in Alabama were declared by the U.S. Supreme Court to be unconstitutional. Alabama could no longer legally have black and white children attend separate schools.		
4. Joe runs a stop sign and refuses to pay the $40 ticket. The judge sends him to the city jail for 3 days.		
5. Bill and Gary rob a liquor store. They are arrested by the local police officer. They are found guilty and sentenced to two years in the state prison.		
6. Mary is picked up by the Salt Lake City Police for drinking beer.		

TYPES OF CRIME-WORKSHEET

List the crime committed under the correct category.

Types of Crime	Crimes
1. White Collar Crimes	Accepting bribes or illegal contributions
	Child beating
	Corporate price fixing
2. Juvenile Crimes	Embezzlement
	Family quarrel which disturbs neighbors
	Gambling
3. Family Crimes	Importation of drugs
	Incorrigibility
	Loansharking
4. Political Crimes	Prostitution rings
	Refusal to pay child support
	Runaway
5. Organized Crimes	Tax fraud
	Truancy
	Using position to favor certain activities in which you gain financially

Novelli, Rebecca and Carl Martz, Criminal Justice Teaching Guide, New York: Scholastic Book Services, 1978, p. 16.

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Course and Grade Level: Seventh to Twelfth Grades

Topic: SHOPLIFTING

Topical Question: What is shoplifting and what are its effects on the community and on the offender?

Time Required: Two to three fifty-minute class periods

Resources:

Materials: Cop Talk Instructor's Guide, Salt Lake City: Utah State Office of Education, 1981, pp. 3-33.

Riekes, Linda and Sally M. Ackerly, Juvenile Problems and Law, 2nd Edition, Law in Action Series, St. Paul: West Publishing Co., 1980, Lessons 18-20, pp. 92-102.

Video tape, Cop Talk #1: Shoplifting, 16 mm., color, 27 minutes, Grades 7-12. Available at many district media centers or the Statewide Clearinghouse (535-7770). Also available for purchase through the Division of Curriculum, Utah State Office of Education, 250 East Fifth South, Salt Lake City, Utah 84111.

Film, Shoplifting, It's a Steal, 16 mm., color, 20 minutes, Grades 7-12. Available at some district media centers, and the Utah Retail Merchant's Association, 10 West 300 South, Salt Lake City, Utah 84111, phone 355-2821.

Film, The Ripoff, 16 mm., color, 25 minutes, grades 7-12, available same as above.

People: School resource officer and/or a security guard for a local store.

Content: Through discussion, a visit from a resource officer and/or security guard, shared experiences, and viewing a video tape and/or film, students will gain an understanding of shoplifting and the ramifications it can have on one's future and on the community.

Objectives: Students will be able to:

1. Define the term "shoplifting."
2. Describe the typical shoplifter.
3. Give reasons why people shoplift.
4. Recognize the implications on one's reputation, future and family if arrested for shoplifting.
5. Describe the effects shoplifting has on society in general.

Procedures:

1. Ask students to recall a time when they took something that didn't belong to them or for which they hadn't paid. Have students who are willing share these experiences with the class.
2. Question the class about their experiences:

   a. Why did you do it?
   b. Do you now consider it stealing?
   c. Did you tell anyone what you did?

3. View the video tape, Cop Talk #1: Shoplifting, or the film, Shoplifting, It's a Steal.
4. Using the background information in the Cop Talk Instructor's Guide, discuss the myths and realities of shoplifting, its causes and effects, and Utah laws pertaining to shoplifting.
5. Give an example of someone caught shoplifting. (It should be topical and one to which the students can relate.) Ask the following questions:

   a. What was the crime?
   b. Should the person have been arrested?
   c. What after-effects might the offender experience personally?
   d. What are the after-effects on society?

6. Invite the resource person to address the class. The resource officer should stress the legal aspects and consequences of shoplifting. The security guard should include discussion of losses to merchants annually and how losses are absorbed by the consumer. Follow discussion with a question and answer period.

Evaluation: Have students participate in discussion sessions with class and with resource person. After viewing the film or video tape, have the students cite consequences for shoplifting.

Course and Grade Level: Seventh to Twelfth Grades
Social Studies, English

Topic: FREE SPEECH

Topical Question: What types of communication should the law protect, tolerate, and not tolerate?

Time Required: One or two fifty-minute class periods

Resources:

Materials: Arbetman, Lee P., Edward T. McMahon and Edward L. O'Brien, Street Law, Second Edition, St. Paul: West Publishing Co., 1980, Student Edition, pp. 270-324 and Teacher Manual, Ch. 6, pp. 229-279.

Schimmel, David, "If Courts Recognized Student Rights," Update on Law-Related Education, Spring 1980, pp. 23-25, 55-58. (Copy included)

Content: Through small and large group inquiry-oriented discussions, students will decide what they feel the limits of free speech should be.

Objectives:

1. Students will become aware of some of the varied forms of communication the law must either protect, tolerate, or not tolerate.
2. Students will be able to decide specific examples of communications they feel should receive legal protection or not.
3. Students will be able to generalize rules of law from specific examples.
4. Students will understand how the law currently protects some forms of speech, tolerates other forms and forbids others.

Procedure:

1. Grabber/Introduction - Ask students, "Should the law treat these two occurrences the same or differently?"

   a. X walks up to Y in a public park but with no one within earshot and falsely accuses Y of having stolen some of X's money in a business deal.
   b. X walks up to Y in a public park as Y is sitting on a bench having a discussion with Z. In a voice loud enough for both Y and Z to hear, X falsely accuses Y of stealing some of X's money in a business deal.

   Some students will say that both acts are equally wrong and, therefore, they should be treated similarly. Others will say that "b" is worse since Y's reputation in Z's eyes will be damaged. These students may argue, therefore, that the law should

treat these two situations differently. Allow these views (and others) to be discussed for several minutes. Then explain that the law sometimes allows recovery of damages in situation "b", but not in situation "a". What happened in "b" is called "defamation" - communications that are either written or spoken that are false and that damage a person's reputation. More particularly, it is called "slander" because it is spoken defamation (as opposed to "libel," which is written defamation). The difference between "a" and "b" is that Y's reputation wasn't damaged in "a" because no one but X and Y heard the falsehood.

(This grabber demonstrates one of the limits the law places on expression and sets up the remainder of the lesson.)

2. Divide the class into three groups. Give each group one set of cases. (Each set deals with a particular area of free speech, but don't inform the class of this.) Instruct each group to read their cases and decide whether the expression involved in that example should be protected by the law, tolerated by the law, or not tolerated by the law. Explain to the class what these three postures of the law mean. Protection means that the government must take some affirmative act to insure that form of expression. An example is the offering of police protection for a controversial speaker, or requiring a television network to accept a political candidate's advertisement. Tolerance merely means that the law neither encourages nor discourages the communication. Situation "a" in the "grabber" is an example, and there are countless others in everyday life. Have students brainstorm a few examples. Finally, ask students to give some examples of speech not tolerated by the law. They will doubtless give some of the examples represented by the cases. That's fine, as it will help focus their thinking.

The Cases:

Set I:

A. Bill Spence was arrested for violating a state law which forbids the "improper use of the flag" of the United States. Spence had attached "peace signs" to a flag and hung it upside down in the window of his apartment.

B. Mary Beth and John Tinker wanted to express their disapproval of the Vietnam War. They chose to wear black armbands as symbols of the opposition. School administrators decided to forbid students from wearing the armbands and to suspend students who refused to remove them. Though the armbands prompted arguments between students in the halls, there was no physical violence associated with the protest. The Tinkers were suspended after refusing to remove their armbands.

C. Tom Guzick, a junior at Shaw High School in Cleveland, Ohio, wore a button in class which advertised an antiwar demonstration. There was a long-established rule at this high school which prohibited the wearing in school of any symbol unrelated to education. When the principal asked Guzick to remove his button, Guzick refused. Guzick was then suspended.

D. A labor union sets up a picket line in front of a factory against whom the union is striking. When deliveries of raw materials are made to the factory, workers try to stop the drivers and talk them out of making the deliveries.

E. During a period of tense anti-Vietnam protests, a community near Dallas was disrupted by student demonstrations. In Dallas itself, a manifesto was published which asked students to boycott classes or wear "black armbands of protest." School officials anticipated that students who supported the war would try to rip off the armbands of the protesting students. In an effort to avoid disruptions, school officials banned the wearing of all armbands. Again, students wore the armbands, refused to remove them and were punished by school authorities.

Set II:

A. Irving Feiner gave a speech on a street corner in a mostly black neighborhood in a large eastern city in 1951. A crowd of less than a hundred people gathered to hear Feiner. The crowd was racially mixed, and some members of the crowd were upset by the comments Feiner was making. These comments included calling the mayor of the city a "champagne-sipping bum", the President a "bum", and the American Legion a "Nazi Gestapo." Some pedestrians walking by the crowd were forced to walk into the street to get by. One member of the crowd said to two police officers who were watching the events that if they did not get the speaker out of there, he would. The police then asked Feiner twice to stop the speech and when he refused, they arrested him.

B. Mr. Carroll and others were members of a "white supremacist" organization known as the National States' Rights Party. On a summer evening in 1966, the party held a public rally near the courthouse steps of a small Maryland town. Using sound amplifiers, party members gave speeches that were aggressively and militantly racist. The speeches, which could be heard for several blocks, were derogatory of blacks and Jews. Between 50 to 150 attended the speeches and about one-fourth were black. Sixty police officers were dispatched to the scene, though few were apparent to the crowd. At the conclusion of the speeches it was announced that the rally would continue the next day. City officials tried to get a court order which would prohibit the party from holding any rallies within the county for the next ten days which would "tend to disturb and endanger the citizens of the county."

C. Dick Gregory, a civil rights leader, led a peaceful march through the streets of Chicago during a period of racial unrest in 1969. The purpose of the march was to urge the mayor to desegregate Chicago's public schools. As the march progressed, thousands of by-standers cursed and threatened the marchers. The police feared they would not be able to contain the crowd and ordered the marchers to disperse. The marchers were then arrested when they refused the police officers' orders.

Set III:

A. A bookstore in a medium-sized western city has a room in the back of the store which is kept locked with a sign on it reading, "Adults Only, Admission, $1.00." Proof of age is required before allowing customers in the room which contains a variety of pornographic material for sale. City leaders succeed in lobbying for an ordinance prohibiting "adult bookstores" and the bookstore owner is arrested for being in violation of the ordinance.

B. A movie theater located one block from a public high school features "X"-rated movies. The marquee of the theater was adorned with provocative posters advertising the movies being shown and scheduled for the future. Students on their way to and from school would pass by the theater.

C. A "road company" from a Broadway show was appearing in a large mid-western city. The show contained many politically-oriented satires, some of which included scenes where members of the cast appear on stage nude. One scene included two members of the cast simulating a sexual act on stage.

D. Stanley was in possession of some pornographic material. He kept the material in his own home, and had it only for his own use, not for resale. Stanley was arrested in his home for violation of a Georgia law prohibiting possession of obscene or pornographic films.

3. Ask each group to try to write a rule or set of rules which incorporates their decisions on their specific cases and could be used to guide courts in other similar cases.
4. Have a spokesperson from each group share their cases, along with their decisions and rules, with the rest of the class. After each group finishes, share with the class the actual state of the law regarding each issue.

Set I - These five cases deal with "symbolic expression," the notion that protectable speech includes actions that are symbolic, in addition to "words" alone. The first case is Spence v. Washington, 418 U.S. 405 (1974). The U.S. Supreme Court reversed Spence's conviction on the grounds that several factors outweighed the government's interest in avoiding the desecration of a national symbol. (See the discussion of the case on page 234 of the Street Law Teacher's Manual, 2nd Edition.)

The second case is the famous Tinker case. The students' expression was held to be protected by the First Amendment by the U.S. Supreme Court. (The Tinker case is described in the Street Law textbook on pages 285 and 286.)

Cases "C" and "E" are the cases of Guzick v. Debrus, 431 F2d 594 (1970) and Butts v. Dallas Independent School District, 436 F2d 728 (1971), respectively. They represent two different interpretations of the Tinker case. Though their facts are very similar, the Court in the Guzick case held that the student's action was not protected while the Butts' court held the action protectable. This difference can be used to demonstrate the inconsistency our system of justice sometimes contains. (A helpful analysis of the Tinker case and the Guzick and Butts cases can be found in the Update article, "If Courts Recognized Student Rights.")

Case "D" represents a hypothetical case, intentionally vague in its facts. Depending on the means used by the strikers to try to persuade delivery drivers to stop, their actions are probably protected. Labor laws have guaranteed that striking workers can protest by picketing their employers if "place and means" guidelines are adhered to.

Set II: These cases involve speakers whose messages are offensive to their audiences who threaten to disturb the peace. These cases most clearly force the law to distinguish between mere tolerance of speech, and the obligation to protect speakers'

rights to speak. The Court in Feiner held that the arrests were proper, but were not in Gregory. The Court held that the county had no right to prevent the rallies in Carroll v. President and Commissioners of Princess Anne, 393 U.S. 1975 (1968). (Again, look to Street Law, 2nd Edition, pages 278 and 279 along with the corresponding discussion on page 235 of the Teacher's Manual for an understanding of Feiner and Gregory.)

Set III: The third set of cases deals with obscenity. The first three cases are hypothetical. They might be decided differently depending on the community in which they occur. The Supreme Court has given local communities broad discretion to define obscenity according to local community standards. Once properly defined as obscene, expression is no longer protected. (This is discussed in the Teacher's Manual of Street Law, 2nd Edition on page 232.) The final case is Stanley v. Georgia 394 U.S. 557 (1969). This case adds the right to privacy to consideration of obscenity. The Supreme Court struck down the Georgia law as an invasion of citizen's rights to privacy. (This is problem 15 on page 293 of Street Law, 2nd Edition.)

Evaluation: Have students answer problem 9 on page 286 of Street Law, 2nd Edition, Student Manual. Answer on page 241 of Teacher Manual.

Teacher Comments: This lesson is an opportunity to distinguish two questions which students sometimes run together:

a. What is the law? and
b. What should the law be?

Students should not be discouraged from developing independent views of what is right and wrong from what the law requires, prohibits, etc. As you share with students the current "state of the law," try not to give the impression that yours is the "right" answer and all others are wrong.

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SPEECH: THE FIRST FREEDOM

David Schimmel

Eleven years ago, a High Court dissenter warned of chaos

If Courts Recognized Student Rights

Have his warnings come true?

By the 1960s, Justice Hugo Black had developed a reputation as one of the Supreme Court's strongest defenders of free speech. He had opposed government censorship in every form and strongly defended the rights of extremist groups to express their views freely. First Amendment freedoms, he wrote, "must be accorded to the ideas we hate, or sooner or later they will be denied to the ideas we cherish" (*Communist Party v. Subversive Activities Control Board*, 367 U.S. 1, 1961).

Although he always believed in keeping the *content* of speech free from government regulation, he never believed that people had a right to speak anywhere they wanted. And to Justice Black, schools were a place for learning, not speech making. Therefore, when the majority of the Court voted in the *Tinker* case to protect the right of a student to wear a black armband to class in defiance of school rules, Black was deeply disturbed (*Tinker v. Des Moines Independent School District*, 393 U.S. 503, 1969). As a result, he wrote a pessimistic dissenting opinion. In contrast to Justice Fortas's majority opinion, which viewed *Tinker* as a narrow and limited decision, Black predicted it would have a fundamental and far-reaching impact.

Now that 10 years have passed, we can ask what the aftermath of *Tinker* has been. Have Black's dire predictions been borne out? What has the decision done to (or for) the schools, and what are its educational implications for the coming decade?

The familiar facts of the case can be outlined briefly. In 1965, at a time when Americans were bitterly divided over the war in Vietnam, a group of students from Des Moines, Iowa, wore black armbands to school as a protest against the war. Because they feared disruption, the principals adopted a rule prohibiting the armbands. Although they knew about the prohibition, John and Mary Beth Tinker deliberately wore armbands to school and were suspended.

As a result, the students and their par-

ents went to court to have the antiarmband rule declared unconstitutional. The district court upheld the schools' action as "reasonable," the appeals court was divided, and the U.S. Supreme Court ruled in favor of the Tinkers. Writing on behalf of the Court, Justice Fortas held that neither students nor teachers "shed their constitutional rights to freedom of speech or expression at the schoolhouse gate." This, he explained, had been the unmistakable holding of the Court for over 50 years.

Radical Change

Justice Black viewed *Tinker* very differently. He saw it as a fundamental break with the past, as a dangerous precedent which would encourage a flood of litigation by students objecting to school rules.

Black strongly denied the majority's claim that the Court had long held that students take their freedom of speech with them to school. The truth, he asserted, was just the opposite: courts had consistently upheld the authority of school officials to enforce rules restricting student expression. The Court, he wrote, never held that a person has a "constitutional right to say what he pleases, where he pleases, and when he pleases." Now, under *Tinker*, even reasonable restrictions could be declared unconstitutional by the courts. Now pupils "from kindergarten through high school" would have a right to express their political views during school hours and in class.

The decision, he predicted, would turn students loose "with lawsuits for damages and injunctions" against their teachers and school officials. It would encourage students to challenge elected school officials in court and believe "it is their right to control the schools rather than the right of the States."

Fortas responded that the decision broke no new ground but only applied the decisions of the past to a specific, peaceful protest involving "direct, primary First Amendment rights." The holding was narrow and limited. It did not involve the school's authority to regulate "deportment," demonstrations, disruptive action, or dress and grooming. Most important, it did not involve a situation in which school authorities might have "forecast substantial disruption of, or material interference with school activities."

Bad for Education and Citizenship

Black's second concern was that the decision would have a negative impact on education in general and on citizenship training in particular. The decision would encourage students to believe that they were sent to school to broadcast their views on politics and other subjects, "to educate and inform the public."

Black sharply disagreed with this notion. Public schools, he wrote, "are operated to give students an opportunity to learn, not to talk politics by actual speech or 'symbolic' speech." In fact, the original idea of schooling, which Black did not believe was out of date, "was that children had not yet reached the point of experience and wisdom to teach all their elders . . . that taxpayers send children to school on the premise that at their age they need to learn[,] not teach."

Black said that the case broke fundamentally with the past, and would encourage a flood of litigation, undermine authority, and destroy good citizenship education

In the past, Justice Black noted, discipline was a vital part of citizenship education, and schools "undoubtedly contributed . . . to making us a more law-abiding people." Today, he wrote, school discipline is still "an integral and important part of training our children to be good citizens—to be better citizens." But this training is seriously undermined when courts allow students, as in this case, to "crisply and summarily refuse to obey a school order designed to give pupils who want to learn the opportunity to do so."

Justice Fortas had a dramatically different view of the way schools should prepare students to be good citizens. First, they should practice the Bill of Rights. Since schools are educating students for citizenship, they must scrupulously protect the constitutional rights of individuals; otherwise, they will "strangle the free mind at its source and teach youth to discount important principles of our government as mere platitudes."

Second, Fortas argued that there is no trouble-free way to prepare students to be effective citizens in a democracy. Allowing open disagreement in schools may be uncomfortable and risky, but the risk is worth it. In defining constitutional freedom in the public schools, he wrote:

> [Fear of] disturbance is not enough to overcome the right to freedom of expression. Any departure from absolute regimentation may cause trouble. . . . Any word spoken in class, in the lunchroom, or on the campus, that deviates from the views of another person may start an argument or cause a disturbance. But our Constitution says we must take this risk; and our history says that it is this sort of hazardous freedom—this kind of openness—that is the basis of our national strength and of the independence and vigor of Americans who grow up and live in this relatively permissive, often disputatious society.

Will Undermine Authority

Black's third prediction was that the *Tinker* decision would encourage permissiveness, undermine authority, and transfer control of the schools from educators to students. In this case, the majority ruled that protesting students had the right to disobey a reasonable school order. By allowing students to defy school officials, Black believed that *Tinker* would begin "a new revolutionary era of permissiveness" fostered by the judiciary. After this holding, he wrote, some students "in all schools will be ready, able, and willing to defy their teachers on practically all orders." As a result of this case, all the public schools will be subject "to the whims and caprices of their loudest-mouthed, but maybe not their brightest, students." In fact, Black wrote, *Tinker* might compel "the teachers, parents, and elected school officials to surrender control of the American public school system to public school students."

In contrast, Justice Fortas saw nothing revolutionary or permissive about his decision; nor did he believe it would lead to disruption. On the contrary, the majority indicated that disruption and disorder were not protected. Thus Fortas ex-

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plained that student conduct, in or out of class, which "for any reason . . . materially disrupts classwork or involves substantial disorder or invasion of the rights of others is, of course, not immunized by the Constitutional guarantee of freedom of speech."

Prediction and Experience

Ten years of experience with the *Tinker* decision support some of Justice Black's predictions but not others. I think, for example, that Black's first prediction was right. *Tinker* did have a profound effect on the number and scope of students' rights cases and on the standards for judging them.

Before *Tinker*, courts used the "reasonableness" test to determine whether a school rule restricting student freedom was constitutional. Under this test, school officials had broad discretion, and all kinds of administrative restrictions were upheld if there was any reasonable purpose, such as maintaining discipline. Under this test, a district court judge found the Des Moines antiarmband rule valid, and most other state and federal judges probably would have done the same.

Tinker abolished this approach. Rules that restricted a student's constitutional rights could no longer be upheld by simply showing a rational connection between the rule and the need for discipline or order.

Tinker established a much higher test. To justify school rules that restrict students' freedom of expression, schools must now present *evidence* (not simply reasons, professional intuition, or honest concerns) that the rules are necessary to prevent disruption—not some disruption, but "material and substantial" disruption. Thus *Tinker* changed the basic standard for judging school policies that restricted student rights. Furthermore, the burden was now on school officials to justify such restrictions rather than on the students to prove that they were unreasonable.

Black also was right in his belief that *Tinker* would have a broad impact and lead to extensive litigation. During the past decade *Tinker* has directly influenced hundreds of students' rights cases, and it has been cited over 1,000 times in later judicial decisions. Furthermore, since 1969 *Tinker* has been the controlling precedent in almost every major state and federal case concerning the rights of students or teachers to freedom of speech, freedom of press, and freedom of association.

In addition, Black correctly foresaw that *Tinker* would not just be applied to free speech issues. Despite the majority's insistence that its decision was strictly limited to pure First Amendment rights, the *Tinker* principles have been more broadly applied by the courts. In 1970, for example, a federal judge in Alabama used the substantial and material disruption test in upholding a teacher's right to assign a controversial book to her high school English class (*Parducci v. Rutland*, 316 F. Supp. 356, 1970). In 1972, Justice Powell cited *Tinker* as precedent in a case upholding the right of students to form radical organizations on campus (*Healy v. James*, 408 U.S. 169, 1972).

Is *Tinker* Bad for Civic Education?

Black's second prediction was that *Tinker* would undermine school discipline and the training of "good citizens." But what is a good citizen? And how should schools prepare students to become such citizens in a constitutional democracy? The answer, according to Black, is through obedience to school rules, not through talking politics or challenging authority.

Fortas replied that the decision was limited, would uphold reasonable authority, and would help children become independent and vigorous citizens

Fortas disagreed. He thought that discipline and obedience were not the keys to training good citizens. He viewed good citizens as active and independent Americans who openly debated political and social issues. Rejecting the notion that students should be prepared for such a role through regimentation, indoctrination, and simply learning what they are told, he said that only by protecting constitutional freedoms and the right to argue about national issues could schools prepare students to be independent and effective citizens.

While many educators agree with Black in identifying discipline as a major school problem, there is no evidence that stricter discipline will produce more responsible citizens. On the contrary, recent studies tend to support the Fortas position. For example, a report on the *Prevention of School Violence and Vandalism* by Senator Birch Bayh's Juvenile Delinquency Subcommittee recommends that schools educate students about their rights and responsibilities and involve them in the process of establishing written codes for the school community.

While the report acknowledges that such steps take extra time and effort, it emphasizes that broad participation in developing and revising school rules "provides one of the best civics courses to which young students can be exposed." According to a former president of the National Organization on Legal Problems in Education, "if students help develop these school codes, they will see better that they are the primary beneficiary" and therefore will be more supportive of school rules.

Similarly, a research report by Johns Hopkins University suggests that student participation in the school decision-making process "often increases student commitment to the school and can reduce student offenses" against both the staff and the school. And a recent study conducted by Cynthia Kelly in the Chicago area indicates that in those schools which more carefully observe the letter and spirit of the Constitution concerning students' due process rights, students tended to have a more positive attitude toward school rules, be more positive about the law, and be more positive about their schooling.

Although the research on this issue is still incomplete, recent data indicates that Justice Fortas was probably right: schools that practice the Bill of Rights and allow students freedom of expression tend to be more effective in preparing them to be active, responsible citizens than those that emphasize rigid discipline and unquestioning compliance.

Revolutionary Permissiveness

Black's next concern was that *Tinker* would lead to an era of revolutionary permissiveness, undermining the authority of school officials and surrendering control to the students. Has this fear been fulfilled? Many critics of school discipline are inclined to say yes. The evidence, however, points the other way.

The question is not whether schools are more permissive or less disciplined today than in 1969, but whether *Tinker* requires permissiveness or inhibits reasonable discipline. And the answer to this question is

no. Judges in dozens of student discipline cases during the 70s have echoed the words that limit the *Tinker* holding: no student "for any reason" has a constitutional right to "materially disrupt classwork," cause "substantial disorder," or interfere with "the rights of other students." And there are no reported cases in which courts have denied school officials the authority to prevent substantial disruption.

Furthermore, there is no evidence that courts are allowing students to take control of the curriculum or the school's disciplinary system. While many schools have increased academic choice and encouraged students to participate in school governance, judges have granted them no constitutional right to determine texts, course requirements, teacher qualifications, academic standards, or disciplinary procedures. Educators and school officials have retained legal control over all these areas. They have often invited student participation. But this has been a matter of educational choice, not constitutional compulsion.

Legal Implications

Has *Tinker* finally settled the legal issues concerning student freedom of expression? Yes and no. Justice Fortas articulated two major constitutional principles designed to clarify the scope and limits to student First Amendment rights: (1) students take the right to freedom of expression with them to school; (2) this freedom does not give students the right to substantially and materially disrupt school work or interfere with the rights of others.

While the "substantial and material disruption" test resolved some issues, it raised other questions about the precise meaning of this standard. For example, how much evidence of disruption is needed to justify restricting a student's rights? Although the answer is still evolving, two federal cases—one from Ohio and the other from Texas—will illustrate the conservative and liberal edges of the judicial response. (For ideas on how to teach about these cases and many other aspects of student expression, see Frank Pawlak's article on page 0.)

Tom Guzick, a junior at Cleveland's Shaw High School, wore a button in class advertising an antiwar demonstration. Pursuant to a long-standing rule prohibiting the wearing of any symbol unrelated to education, the principal asked Guzick to remove his button. Guzick refused, saying that a Supreme Court decision "entitled him to wear the button in school." After Guzick was suspended, he went to court.

School officials argued that the no-symbol rule was necessary because in past years the wearing of buttons with racial slogans had led to hostility and disruption at this integrated school. Guzick argued that there was *no* evidence that *his* button would cause any disruption. But a majority of the Sixth Circuit Court of Appeals ruled in favor of the school (*Guzick v. Debrus*, 431 F.2d 594, 1970). It distinguished *Guzick* from *Tinker* on several grounds: Shaw's prohibition had been uniformly enforced against all symbols for years; some buttons had caused serious disruption in the past; and it was ad-

Materials on Student Rights and Responsibilities

Plenty of materials exist on the rights and responsibilities of students. Here is a sampling.

Legal Cases

Alan Levine, *The Rights of Students* (1977). This American Civil Liberties Union handbook covers such topics as First Amendment rights, personal appearance, due process, corporal punishment, discrimination, and school records. The book is based on major cases in each of these areas. The cost is $1.75, plus postage and handling. (Avon Books, Mail Order Department, 224 W. 57th Street, New York, NY 10019)

David Schimmel and Louis Fischer, *The Civil Rights of Students* (1975). This book uses the case study approach to investigate the civil rights of students. Cases involve freedom of speech, freedom of the press, freedom of association, freedom of religion and conscience, dress codes, racial and ethnic segregation, sex discrimination, and due process. Appendices include notes on how to use the legal system, summaries of leading cases, and suggestions on how to use the book in a classroom. The cost is $7.95. (Harper and Row Publishers, Inc., 10 E. 53rd Street, New York, NY 10022)

David Naylor, "Teaching About Student Rights and Responsibilities," *Update on Law-Related Education* (Fall, 1979). This article includes a series of lesson plans illustrating how cases on student rights and responsibilities can be incorporated into the classroom. The cost of the back issue of *Update* is $2.00. (American Bar Association, Circulation Department, 1155 E. 60th Street, Chicago, IL 60637)

Curricula

Student Responsibilities and Rights (1978). Three-week unit composed of methodology, lesson plan, student resources, and pre-post tests. It provides for comparison and contrast between student rights and responsibilities and the Bill of Rights and the Constitution. The cost is $8.00. (Law-Related Education Program for the Schools of Maryland, Greenbelt High School, 8950 Edmonston Road, Greenbelt, MD 20770)

"Youth in School" (section in text *Juvenile Justice* [1978]). A comprehensive curriculum guide designed to acquaint young people with their rights and liabilities under the law, as it affects them in school and under the juvenile court system. The cost of the text is $8.00. (Institute for Political/Legal Eduction [IPLE], 207 Delsea Drive, R.D. 4, Box 209, Sewell, NJ 08080)

David Schimmel and Louis Fischer, *Consuming Educational Services* (1979). This curriculum module for 11th grade students tries to help them understand their role as consumers of services, specifically of educational services. Organized in five units—the right to education and the duty to go to school, freedom of speech and press, due process in school, search and seizure, and student and parent involvement in educational decisions—the module also includes a pretest and a unit test, a guide for teachers, statements of general and specific objectives for each unit, selected constitutional amendments and excerpts from pertinent Appellate Court decisions, a glossary of legal terms, and listings of further resources for both students and teachers. The cost is $4.00, prepaid. (Adda Manosalvas, New Careers Training Laboratory, Room 1212, 33 West 42nd Street, New York, NY 10036)

ministratively impractical for officials to permit some buttons and not others.

But as the dissenting opinion pointed out, "there was no indication" that the wearing of this button would cause *any* disruption. Thus *Guzick* exemplifies a narrow interpretation of *Tinker* in which factors of past disruption and administrative convenience seemed to outweigh a student's right to freedom of expression.

A liberal interpretation of *Tinker* is provided by the *Butts* case from Dallas, Texas. It also arose on a day of antiwar protest when tensions were high. Disruptive student demonstrations had occurred in a nearby community, a manifesto was published asking students to boycott classes or wear "black armbands of protest," and officials believed prowar students would try to tear armbands off the protesters. Under these circumstances, officials banned all armbands to prevent serious disruption. However, since there was no evidence that the armband wearers would cause trouble, the Fifth Circuit ruled that the expectations of disorder by others were not enough to suspend the students' right of symbolic speech (*Butts v. Dallas Independent School District*, 436 F.2d 728, 1971).

What more was required to justify the school's action? According to this court, administrators should first develop solid information on the intentions of the protesters and then determine "based on fact, not intuition" that disruption would probably result from wearing the armbands. Second, officials should make an effort to bring leaders of different student factions together to agree on mutual respect for each other's constitutional rights.

If actions such as these had been tried and failed, the failure might justify restricting the armbands. But in this case no such attempts were made. The court concluded that *Tinker* "declared a constitutional right which school authorities must nurture and protect, not extinguish," unless there is "no practical alternative." Clearly in this case administrative convenience was given far less weight than in *Guzick*. And this court expected educators to do much more than collect evidence of possible disruption before restricting a student's constitutional rights.

While *Guzick* and *Butts* illustrate a conservative and liberal interpretation of *Tinker*, how will most judges resolve close cases in this area? How will they rule when officials restrict student freedom in tense situations where there is evidence of some (but not substantial) disruption? The answer might be found in *Karp v. Becker* (477 F.2d 171, 1973). Here the Ninth Circuit ruled on a controversy involving a few chanting and shoving student demonstrators who were protesting the nonrenewal of a teacher's contract. Fearing violence, the vice-principal prohibited all students from bringing protest signs into the school. Steve Karp, one of the peaceful protestors, sued.

Was the vice-principal right? Can schools impose restrictions where there's more disruption than in *Tinker* but substantial disorder has not yet occurred? The court said "yes." The issue, wrote the judge, is whether the evidence is sufficient to support the school officials' "forecast of a reasonable likelihood of substantial disorder." The judge explained that in cases such as this, courts should avoid the temptation to be a "Monday morning quarterback." Instead of "second-guessing" school officials, courts should focus on "whether the apprehension of the officials was unreasonable under the circumstances." Here the judge ruled that the vice-principal's forecast of substantial disruption was not unreasonable and that the school's prohibition of Karp's sign was not unconstitutional. From this decision, it would appear that in close cases, courts will tend to support administrators who take action to prevent substantial disruption which is based on sufficient evidence.

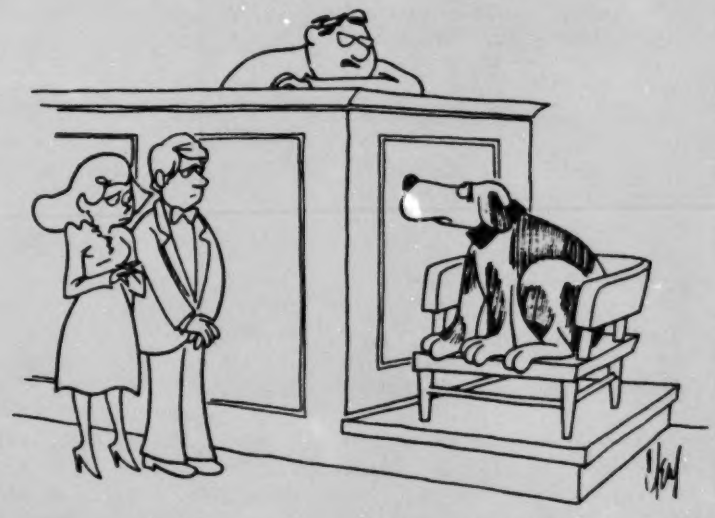
Guzick, *Butts*, and *Karp* not only illustrate the way *Tinker* has been applied during the past decade, but also indicate three types of interpretations that can be expected in the future. This is not to suggest that judges have unlimited discretion, but only that the "substantial and material disruption" test, like other constitutional standards, cannot be applied by the courts with mathematical predictability.

Educational Possibilities

During recent years, the *Tinker* case has become a standard part of many legal studies programs. Increasing numbers of students and teachers now know that students have a right to wear armbands to school. But some of the central issues raised in the Black-Fortas debate are rarely confronted by educators or highlighted in curriculum materials. And these are issues that may be essential in preparing students to be responsible citizens in a democracy.

One set of issues concerns how citizens should respond to laws they believe are unconstitutional. How, for example, should students respond to rules they believe violate their rights? Must they first try to change them through school channels? What should they do after they try and fail? If there are no school procedures for students to challenge such rules, do they have a right to defy them? And how should students respond when the rights of others are violated?

Another set of questions concerns what citizens should do about rules that are unjust but not illegal. How do we know if a rule or law is unjust? What should we do if we are unable to change unjust rules? Does civil disobedience undermine or strengthen our legal system? Finally, what are the responsibilities



"Now Bernie, I want you to go and lick the hand of the person you want to have custody of you."

of educators to incorporate such issues into the curriculum and help students think through these complex and critical questions?

And there's another dimension to the question.

Just as the *Tinker* case can help students think more deeply about issues of law and justice, so it can help us think more broadly about the ways we teach about law *outside the classroom*. While Fortas and Black differed about constitutional interpretation and educational methods, they agreed that schools teach citizenship through the nonformal or "hidden" curriculum, through the way they develop, judge, explain, and interpret their rules and disciplinary policies. It was precisely because both justices recognized that school governance has a profound influence on shaping student attitudes toward law that their disagreement was so intense.

It is almost a cliche to note that schools, like parents, teach as much by what they do as by what they say. This is especially true in the field of law where, for example, we teach as much about search and seizure or due process by what we do in hallways and the principal's office as by what teachers and texts say about the Fourth and Fourteenth Amendments in class. If our goal in school is to educate students to respect our legal system, but we violate students' constitutional rights through our disciplinary system, then our behavior will defeat our goal. Even when school officials are unaware that they are acting illegally, the unintended consequence of such institutional hypocrisy is to teach legal cynicism.

Today most law-related education ignores the nonformal curriculum. An important goal for the 1980s should be to redesign our approach to law studies so that the formal and hidden curriculum can complement and reinforce each other. There are several ways this can be done.

First, we can broaden our teaching of the Bill of Rights to include a full spectrum of cases dealing with students as well as adults. Just as *Tinker* is often used in a unit on free speech, so we can use recent court cases resolving conflicts between students and schools when we teach freedom of press, religion, and association, as well as equal protection, due process, and search and seizure. Such cases are lively, relevant, and easily available (see box on page 56). They have been successfully used in the public school curriculum, and they teach students about the limits as well as the scope of their constitutional rights.

Second, we can incorporate the study of student codes into our law curriculum in the same way we teach other subjects we take seriously. If a teacher simply handed students a text and said, "Take this home and read it carefully; you will be held responsible for everything that's in the book," we would conclude that the teacher didn't care, was incompetent or both. Too often, however, this is exactly the way we "teach" students about school rules and procedures, about a legal system that affects them every day and for which we hold them accountable.

Challenge for the 80s

Shouldn't this be changed? If our law classes are going to teach anything thoroughly, shouldn't they carefully examine the school codes that directly affect all of our students? Curricula that illustrate how this can be done have been developed for Maryland, New Jersey, and New York (see box). The Maryland material explains the relationship between the rules of the school and the laws of the state and federal government, plus constructive ways to evaluate and change school rules. Such materials suggest how schools can teach law through the formal and nonformal curricula, and they can be developed or adopted by every law studies project.

In reviewing the cases that followed *Tinker*, it seems clear that some of Justice Black's predictions have been fulfilled and others have not. Although Justice Black correctly predicted that *Tinker* would lead students to demand their rights more frequently and to initiate lawsuits when they believed their rights had been violated, this has not subjected schools "to the whims and caprices of their loudest-mouthed" students. Rather, it has led to a growing and active interest in the law on the part of students, teachers, parents, and administrators.

Tinker did not begin a "new revolutionary era" of judicially fostered permissiveness, as Justice Black feared. Judges have consistently allowed administrators to protect schools from student expression that would lead to disorder. On this issue Justice Fortas was right. Constitutional rights and freedom in the schools have proven to be compatible with reasonable discipline and effective citizenship education.

As we approach the bicentennial of the Constitution in 1987, some educators still feel that practicing the Bill of Rights in the public schools is risky. But as Justice Fortas pointed out, our Constitution says we must take this risk, and our history says the risk is worth it. Thus, there may be no better way for schools to observe the coming bicentennial than by practicing what we teach about the law—by risking on the side of the Constitution. □

"This is that joint account I was telling you about."

Schimmel, David, "If Courts Recognized Student Rights," Update on Law-Related Education, Spring 1980, pp. 23-25, 56-58.

Course and Grade Level: Seventh to Twelfth Grades
Social Studies or Law-Related Education

Topic: COURT TOUR (Law-Related Education Court Tour Program)

Topical Question: What is the court system and how does it function?

Time Required: Morning (9:15-11:30 a.m.) or afternoon (2:00-4:00 p.m.) visit to Fifth Circuit Court, Salt Lake City, Utah. Includes one hour courtroom experience and one hour question-answer period and presentation or film about court system.

Note: The actual Court Tour should be preceded by at least two class periods of discussion using information from the materials listed below.

Resources:

Materials: Court Tour Packet, Grades 7-12, (provided by the Statewide Clearinghouse on Law-Related Education prior to Court Tour, Room 310A, Metropolitan Hall of Justice, 240 East 400 South, Salt Lake City, Utah, 84111, phone: 535-7770).

Riekes, Linda, and Sally M. Ackerly, Courts and Trials, Second Edition and Teacher Edition, Law in Action Series, St. Paul: West Publishing Co., 1980, pp. 4-43. (Grades 7-9)

Arbetman, Lee P., Edward T. McMahon and Edward L. O'Brien, Street Law, Second Edition, St. Paul: West Publishing Co., 1980, Student Edition, pp. 12-20; Teacher Manual pp. 33-36. (Grades 10-12)

Starr, Isidore, Justice: Due Process of Law, St. Paul: West Publishing Co., 1981, pp. 1-73. (Grades 10-12)

People: Volunteer to conduct Court Tour.

Content: By preparing for and participating in a court tour, students will gain an understanding of the court system and how it functions.

Objectives: At the end of the Court Tour Program, students will be able to:

1. Understand the purpose and process of the court system.
2. Explain the responsibilities of the people who work with the courts, as well as understand the parts played by witnesses, jurors, attorneys, etc., in the court system.

3. Distinguish between the types of court hearings, (trial and appeals) as well as the two separate court systems (federal and state).
4. Recognize the differences between criminal and civil cases.
5. Explain "due process" and tell how "precedent" is used in making court decisions.
6. Define the list of vocabulary words included with Court Tour Packet.

Procedures:

1. Court Tour arrangements:

   a. Sign up for Court Tour - (call 535-7770 for the Statewide Clearinghouse on Law-Related Education).
   b. Discuss vocabulary lists, courtroom diagrams and information contained in brochures with students before the day of the tour. The brochure, "Our System of Justice," will help students understand what happens from arrest to punishment.

2. Classroom preparation:

   a. Grades 7-9: Text, Courts and Trials

      (1) Lesson 1 (Decisions and Conflicts) and Lesson 2 (Resolving Conflicts). Lead classroom discussion having students think about conflict and ways of resolving it.
      (2) In Lesson 3 (Introduction to Courts), view the judicial system as a way to provide a legal and orderly way to resolve disputes between people. Examine pictures on pages 9-10 and identify kinds of problems the courts handle. Discuss the differences between civil and criminal cases.
      (3) Discuss Lesson 4 and help students distinquish between the state and federal court systems.
      (4) Read Lesson 6 and discuss "due process" in the courts. Read Lesson 7 and define "precedent" and illustrate how precedent is used in making court decisions.

   b. Grades 10-12: Text, Street Law

      (1) Read pages 12-20 of student manual. Distinguish between trial courts and appeals courts and read "The Case of Taking a Car by Mistake" to illustrate an error of law and a case that could be appealed.
      (2) Discuss the term "precedent" and read "The Case of Gideon v. Wainwright" for discussion of both "precedent" and "due process."

(3) Distinguish between court systems - see Figure 2 on page 16 and discuss various types of trial courts within states. Outline the differences between civil and criminal cases (pp. 19-20).

c. Grades 10-12: Text, Justice: Due Process of Law

(1) Read Section 1, pages 1-73.
(2) Lead classroom discussion comparing the courtroom to a theater. Point out various roles, players, props, etc. This exercise can be an effective way to introduce the concept of the court system to students.

3. Students participate in actual Court Tour.

Evaluation:
1. Ask students to write a paragraph describing why a court system is necessary and important for individuals within our system of government.
2. Give a quiz using 20-30 words from the vocabulary list in the Court Tour packet.
3. Have students write a reaction to their Court Tour. Include this in the school's monthly news bulletin.

Teacher Comments: A study of the courts can be expanded through:

1. Use of a Resource Person (lawyer, judge, police officer, etc.).
2. Class participation in a mock trial (see pp. 21-25 in "Teaching Strategies").
3. This lesson is expanded by using Justice: Due Process of Law at least one day. It is well worth the preparation.
4. For a fuller unit and a broader understanding of the courts, you may want to schedule two court experiences for students.
5. Send reactions of students to the Clearinghouse to be included in the Clearinghouse's newsletter.

COURT TOUR VOCABULARY*

ELEMENTARY: GRADES 5-9 AND LESS ADVANCED 10-12 GROUPS

1. ACQUIT - To be found not guilty.
2. APPEAL - Take a case to a higher court for review.
3. ARRAIGNMENT - The bringing of the accused before a judge to hear the complaint so the accused may enter a plea of guilty or not guilty. The judge may decide to set bail during the arraignment.
4. ARREST - To take away a person's freedom for legal reasons.
5. ATTORNEY - Lawyer, counsel.
6. BAIL - Money that the judge makes the accused person pay to the court to make sure the accused will show up at trial. The bail money is usually lost if the accused does not show up at the trial. People who cannot pay bail must stay in jail until their trial. Bail is returned after trial.
7. BAILIFF - An officer of the court who has charge of the accused person while he or she is in the courtroom.
8. BOOKING - Being placed in jail.
9. CHAMBERS - The judge's private office in the courthouse.
10. CHARGE - The statement accusing a person of committing a crime.
11. CIVIL CASE - A lawsuit to enforce a right or gain payment for a wrong (other than a criminal offense) done to a person or party by another person or party.
12. CLERK - Court official who keeps court records, official files, etc.
13. COMPLAINT - The first paper filed in a lawsuit which states the wrong done to the plaintiff by the defendant and a request for a remedy by the court.
14. CONVICT - To be found guilty.

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*Riekes-Mahe, Courts and Trials, Law in Action Series, First Edition, St. Paul: West Publishing Co., 1975. (Material is taken in part from the glossary of this text.)

15. COURT - Place where judges hear lawsuits, where lawyers represent each side and witnesses give testimony for the jury to reach a verdict and the judge to make a judgement.

16. CRIMINAL CASE - A lawsuit by the government to try to find an accused person guilty of committing a crime.

17. CROSS-EXAMINATION - The questioning of a witness by one lawyer after the other lawyer has already questioned him.

18. DAMAGES - Money that a court orders paid to a person or party (usually the plaintiff) who has suffered a loss by another person or party who caused the loss (usually the defendant).

19. DEFENDANT - A person against whom a legal action is brought.

20. DEFENSE ATTORNEY - The lawyer who defends the defendant or the accused person.

21. DELIBERATION - The deciding of "guilty" or "not guilty" in private by the jury after the evidence has been given and the witnesses have been examined.

22. EVIDENCE - Facts; proof; a statement or a thing that makes clear something is true or happened.

23. EXHIBITS - Objects presented in court to prove the facts of a case.

24. FELONY - A very serious crime such as murder, armed robbery, etc., where imprisonment is usually for more than one year.

25. GRAND JURY - A jury which hears complaints and accusations of a crime and which can make formal accusations or indictments after which the accused is tried in court.

26. GUILTY - The state of having committed the crime. The defendant can enter a plea of "guilty" or the jury can give a verdict of "guilty".

27. INDICTMENT - A formal accusation of the commission of a crime against a person by a grand jury.

28. INNOCENT - Not guilty.

29. JUDGE - A person appointed or elected to hear and decide questions of law in court cases, and to make certain that fair procedures are used.

30. JURISDICTION - The geographical area in which a court can hear and decide legal matters.

31. JURY - A group of people (usually twelve) chosen by law and satisfactory to both sides of a lawsuit, to decide facts about the case.

32. LAWYER - A person who has been licensed to represent others in legal matters; an attorney.

33. LIABILITY - A legal responsibility, obligation, or debt.

34. MISDEMEANOR - A less serious crime such as resisting arrest or petty larceny (property of small value), where the imprisonment cannot be for more than one year.

35. OATH - The swearing before the court that you will tell the truth or decide the case fairly. Witnesses and jurors take oaths.

36. ONE'S OWN RECOGNIZANCE - A person's being released without bail until his trial time.

37. ORDINANCE - City laws made by the Salt Lake City Mayor Council of Government.

38. PERJURY - Lying while under oath.

39. PLAINTIFF - The person or party who files a complaint and brings legal action against another person or party.

40. PLEA - The defendant's answer of "guilty" or "not guilty" when he is accused of committing a crime.

41. PROBABLE CAUSE - A reasonable belief that another person has broken the law.

42. PROBATION - Being supervised by a probation officer for a set time instead of going to jail after being found guilty.

43. PROSECUTOR (PROSECUTING ATTORNEY) - Lawyers who defend the interest and the rights of the people of the state against a defendant in a criminal trial.

44. REPORTER (COURT REPORTER) - The legal stenographer who records court proceedings.

45. SENTENCE - The punishment or penalty given by the judge to a person convicted of a crime after the jury has given the verdict.

46. SHOPLIFTING - Taking something from a store without paying for it.

47. SUBPOENA - A court order to appear in court to give testimony.

48. TESTIFYING - Evidence given by a witness under oath.

49. TRIAL - A legal case in a court decided by a judge and jury.

50. VERDICT - The decision made by the jury during a trial.

51. VIOLATE - To go against or break.

52. VOIR DIRE - The questioning of possible jurors by the judge and the lawyers to decide whether they are acceptable to decide the case.

53. WITNESS - A person who has knowledge of facts having to do with a case being tried and who gives testimony.

COURT TOUR VOCABULARY*

SECONDARY: GRADES 8-12

1. AFFIDAVIT - A written and sworn statement witnessed by a notary public or another official possessing the authority to administer oaths.

2. ALIBI - An excuse or plea that a person was somewhere else at the time a crime was committed.

3. APPEAL - The bringing of a case to a higher court for a rehearing.

4. APPELLATE COURT - A court which hears appeals from lower court.

5. ARRAIGNMENT - In a misdemeanor case, the initial appearance before a judge at which the defendant is told his rights, given a lawyer and enters his plea; in a felony case, the proceeding after the indictment at which the defendant comes before a judge, has the charge read to him and enters his plea.

6. ARREST - To deprive a person of his liberty by a legal authority.

7. BAIL - A sum of money posted by a defendant to guarantee his appearance in court after being released from jail.

8. BAIL BONDSMAN - A person who posts bail to obtain the release of a defendant from jail in exchange for a fee, usually 10% of the total bail.

9. BAILIFF - An officer of the court who has charge of the accused person while he or she is in the courtroom.

10. BEYOND A REASONABLE DOUBT - Entirely convinced; in a criminal case the defendant's guilt must be proved to the jury to this extent.

11. BREACH - A breaking or failure - as when one party fails to carry out one of the promises made in a contract.

12. BRIEF - A lawyer's written statement of his client's case.

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*Arbetman, Lee P., Edward T. McMahon, and Edward L. O'Brien, Street Law, 1st and 2nd Editions, St. Paul: West Publishing Co., 1975 and 1980.

13. CHANGE OF VENUE - Properly speaking, the removal of a suit begun in one county or district to another county or district for trial, though the term is also sometimes applied to the removal of a suit from one court to another court of the same county or district.

14. CIRCUITS - Divisions of court jurisdiction.

15. CIVIL LAW - All areas of law which do not involve criminal matters; usually involve dispute between two private individuals.

16. CLERK OF COURT - An officer in charge of the records and proceedings of a court.

17. COMPLAINT - (Also called "petition" or "declaration"): The legal statement of the plaintiff's claim of grievance. It identifies both plaintiff and defendant and usually gives the residence of the parties, the alleged basis for the defendant's legal liability and a request for damages or another remedy.

18. CONTEMPT OF COURT - Any act which is calculated to embarrass, hinder, or obstruct court in administration of justice, or which is calculated to lessen its authority or its dignity.

19. CONTRACT - A legally enforceable agreement between two parties who each promise to do certain things.

20. CORROBORATION - Confirmation or support of the story of a witness or victim.

21. CROSS-EXAMINATION - Questioning of a witness who has testified for the other side in a court case.

22. DAMAGES - Money paid to a person who has been injured by the actions of another person.

23. DEFENDANT - The accused in a criminal case; the person from whom money or other recovery is sought in a civil case.

24. DEPOSITION - The written testimony of a witness taken under oath outside of court.

25. DETERRENCE - Punishment or other means which discourages or prevents someone from doing an act again (such as committing a crime).

26. DUE PROCESS - The regular exercise of powers of the government according to procedures established to protect individuals' rights for the class of cases to which the procedures belong.

27. EVIDENCE - Any species of proof, legally presented at the trial of an issue, by the act of the parties and through the medium of witnesses, records, documents, concrete objects, etc., for the purpose of inducing belief in the minds of the court or jury.

28. EXTRADITION - The surrender by one state to another of an individual accused or convicted of an offense outside its own territory and within the territorial jurisdiction of the other, which, being competent to try and punish him, demands the surrender.

29. EXCLUSIONARY RULE - Evidence which was obtained illegally cannot be used in a criminal trial against a defendant.

30. FELONY - Each state will have its own definition of a felony. Utah felony is dependent upon the degree of the crime committed. A felony is a major crime usually punishable by a fine and/or period of confinement in a state correctional institution.

Example of felonies are: assault with a deadly weapon, burglary, rape, and grand larceny; murder, possession of a controlled substance with intent to sell.

31. FINE - A sum of money paid as part of a penalty of conviction for a particular offense.

32. GARNISHMENT - A court order to take part of a person's wages before he gets them because an unpaid debt is owed to a creditor.

33. GRAND JURY - 12-23 citizens who hear evidence to decide whether a defendant should be held for a felony trial.

34. HABEAS CORPUS - Latin phrase meaning "you have the body"; in criminal cases it refers to a court order to have a prisoner released if he is being held illegally.

35. HUNG JURY - One unable to reach a verdict as required by law, i.e., unanimous or 9-3, as may be permitted.

36. INCARCERATION - Imprisonment; confinement in a jail or penitentiary.

37. IN CONTEMPT OF COURT - To cause an act which is calculated to embarrass, hinder or obstruct court administration of justice, i.e., to refuse to obey an order of the court, or show disrespect to the judge or jury.

38. INCRIMINATE - Involve or make to appear guilty of a crime.

39. INDICTMENT - An accusation made by a Grand Jury that the accused has violated a law (used only with felonies).

40. INJUNCTION - A court order forbidding a certain action.

41. JURISDICTION - The legal authority of a court to hear a case or conduct other proceedings; power of the court over person and subject matter.

42. JURY - A certain number of persons selected according to law, and sworn to inquire of certain matters of fact, and declare the truth upon evidence to be laid before them.

43. LARCENY - Larceny is fraudulent taking and carrying away of a thing without claim of right, with intention of converting it to a use other than that of the owner, without his consent.

44. LITIGANT - A party to a lawsuit; one engaged in litigation; usually spoken of active parties.

45. MANSLAUGHTER - The unlawful killing of another without malice; either expressed or implied; which may be either voluntarily, upon a sudden heat, or involuntarily, but in the commission of some unlawful act.

46. MISDEMEANOR - A criminal offense, less serious than a felony, punishable by a prison sentence of one year or a fine.

47. MISTRIAL - A trial which is void because of some error.

48. MOTION - A request presented to the court in legal form.

49. NOLO CONTENDERE - Latin phrase meaning "I will not consent it"; a plea in a criminal case which has a similar legal effect as pleading guilty, except that the defendant does not actually admit having committed the crime.

50. ORDINANCE - A rule established by authority; a permanent rule of action; a law or statute. In a more limited sense, the term is used to designate the enactments of the legislative body of a municipal corporation.

51. PAROLE - Release from prison before the full sentence has been served, granted at the discretion of a parole board.

52. PLAINTIFF - A person who brings a civil lawsuit.

53. PLEA - The defendant's response to a criminal charge (guilty, not guilty, or nolo contendere).

54. PLEA BARGAINING - Negotiations between a defense attorney and a prosecutor in which a guilty plea is exchanged either for a lesser charge or a lesser sentence.

55. PRECEDENT - A rule of law established by an appellate court for a particular type of case.

56. PREJUDICIAL - Evidence which might unfairly sway the judge or jury to one side or the other.

57. PRELIMINARY HEARINGS - An information hearing in Circuit Court which screens felony cases by deciding whether or not there is enough evidence to warrant a trial in the District Court. The defendant may waive this hearing. If sufficient evidence is determined at the hearing by the judge, the defendant is "bound over" for trial in District Court.

58. PREMEDITATION - When a crime was thought about beforehand.

59. PROBABLE CAUSE - Reasonable grounds for belief that a person should be arrested or searched.

60. PROBATION - A sentence releasing the defendant into the community under the supervision of a probation officer (possible only where the law does not require a minimum jail term for that crime).

61. PROSECUTOR - The government's attorney in a criminal case.

62. PUNITIVE DAMAGES - Money awarded by a court to an injured person in order to punish the person who hurt him.

63. RECOGNIZANCE - Allowing a person to be released from jail upon his own word that he will appear in court at the designated time and place. Recognizance is given in connection with a person's ties to the city. (family, job, etc.)

64. RESTRAINING ORDER - Similar to an injunction, however, usually issued in a divorce proceeding - commanding the party to leave the other party alone.

65. SENTENCE - The judgment formally pronounced by the court or judge upon the defendant after his conviction in a criminal prosecution, awarding the punishment to be inflicted.

a. Civil - In civil cases, the terms judgment, decision, award, finding, etc. are used.
b. Suspended - Postponing of the execution of the sentence after it has been pronounced upon certain conditions.
c. Deferred - Postponing of the execution of the sentence of deferred finding for a period of time upon certain conditions. Does not operate as a suspension of sentence.

66. SMALL CLAIMS - A civil dispute in Circuit Court where the amounts of money involved are less than $400. Persons usually are not represented by lawyers in small claims.

67. STAY (OF PROCEEDINGS) - The temporary suspension of the regular order of proceedings in a cause, by direction or order of the court.

68. SUMMONS (OR SUBPOENA) - An official order to appear in court at a specific time.

69. TORT - A breach of some obligation causing harm or injury to someone. A civil wrong, such as negligence or libel.

70. TRIAL - Proceedings in open court after the pleadings are finished and the prosecution is otherwise ready, down to the rendition of the verdict.

Civil Trial - Usually a suit involving money which is brought to court by action of a plaintiff against an individual or a business. For example: John Doe (plaintiff) vs. Harry Smith (defendant) The May Company (plaintiff) vs. John Doe (defendant).

In Circuit Court the maximum amount in dispute is $5,000. Any amount above this goes directly to District Court.

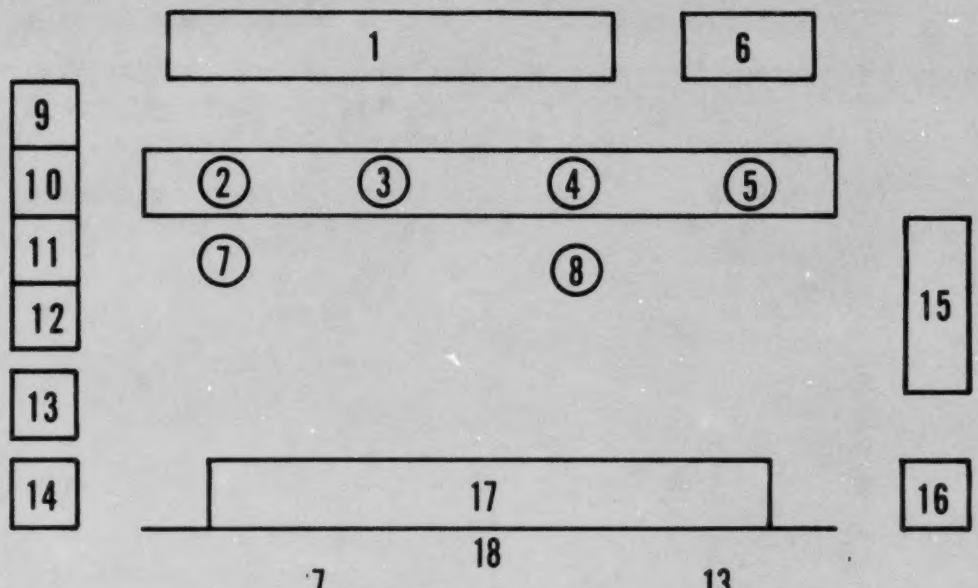
71. VERDICT - Formal decision or finding made by a jury.

72. VOIR DIRE - The process in which opposing lawyers question prospective jurors to try to get as favorable or as impartial a jury as possible.

73. WARRANT - A writ of paper issued by a judge or magistrate which allows the police to make a search or arrest a person.

74. WITNESS - One who testifies to what he had seen, heard or otherwise observed.

Fifth Circuit Arraignment Court

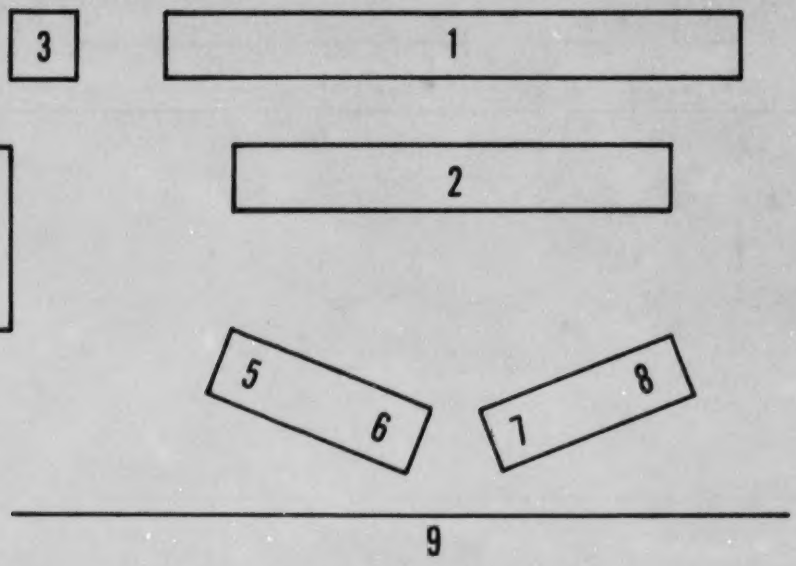


1 _____	7 _____	13 _____
2 _____	8 _____	14 _____
3 _____	9 _____	15 _____
4 _____	10 _____	16 _____
5 _____	11 _____	17 _____
6 _____	12 _____	18 _____

Many of the people listed below will be in the arraignment court. However, all of them may not be present on any given day. Listen carefully to what is being said and see how many of these people you can identify on the diagram.

Bailiff
City Criminal Clerk
County Attorney Representative
Court Liaison
Court Ombudsman
Defendants and Audience
Female Jail Transportation Officer
Female Jail Prisoners
Jail Officer
Judge
Judge's Clerk
Male Jail Prisoners
Male Jail Transportation Officer
Officer from Adult Probation and Parole
Pre-Trial Release Representative
Representative from Alcohol and Drug Services
Representative from Legal Defenders
State Felony Clerk

Fifth Circuit Civil Trial Court



1 _____ 4 _____ 7 _____

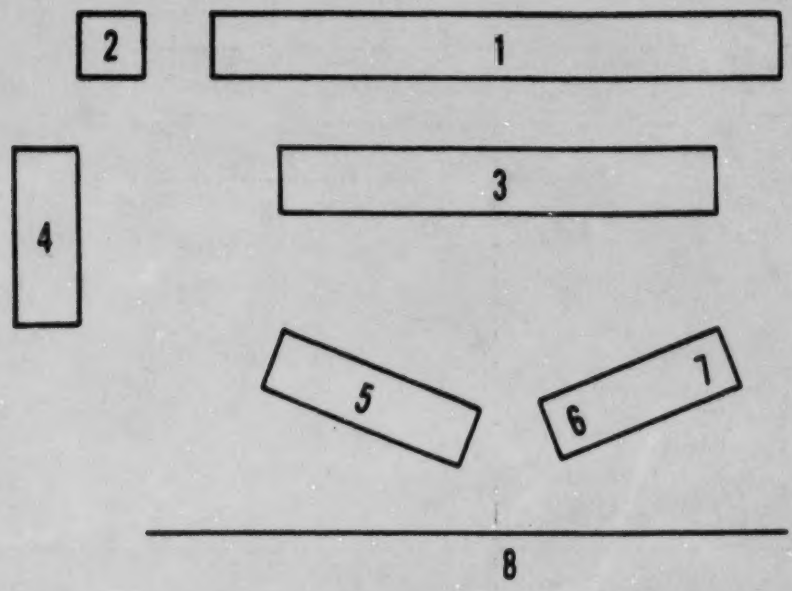
2 _____ 5 _____ 8 _____

3 _____ 6 _____ 9 _____

PERSONNEL

Audience
Defendant
Defendant's Attorney
Judge
Judge's Clerk
Jury
Plaintiff
Plaintiff's Attorney
Witness

Fifth Circuit Criminal Trial Court



1 _____ 4 _____ 6 _____

2 _____ 5 _____ 7 _____

3 _____ 8 _____

PERSONNEL

Audience
Defendant
Defense Council
Judge
Judge's Clerk
Jury
Prosecutor
Witness

COURTROOM DIAGRAMS ANSWER SHEET

5th Circuit Court Arraignment Court

1. Judge
2. Judge's Clerk
3. City Criminal Clerk
4. State Felony Clerk
5. Jail Officer
6. Bailiff
7. Representative from Legal Defenders
8. County Attorney Representative
9. Pre-Trial Release
10. Officer from Adult Probation and Parole
11. Representative from Alcohol and Drug Services
12. Court Ombudsman
13. Court Liaison
14. Male Jail Transportation Officer
15. Female Jail Prisoners
16. Female Jail Transportation Officer
17. Male Jail Prisoners
18. Defendants and Audience

5th Circuit Court Civil Trial Court

1. Judge
2. Judge's Clerk
3. Witness
4. Jury
5. Plaintiff
6. Plaintiff's Attorney
7. Defendant
8. Defendant's Attorney
9. Audience

5th Circuit Court Criminal Trial Court

1. Judge
2. Judge's Clerk
3. Witness
4. Jury
5. Prosecutor(s)
6. Defense Council
7. Defendant
8. Audience

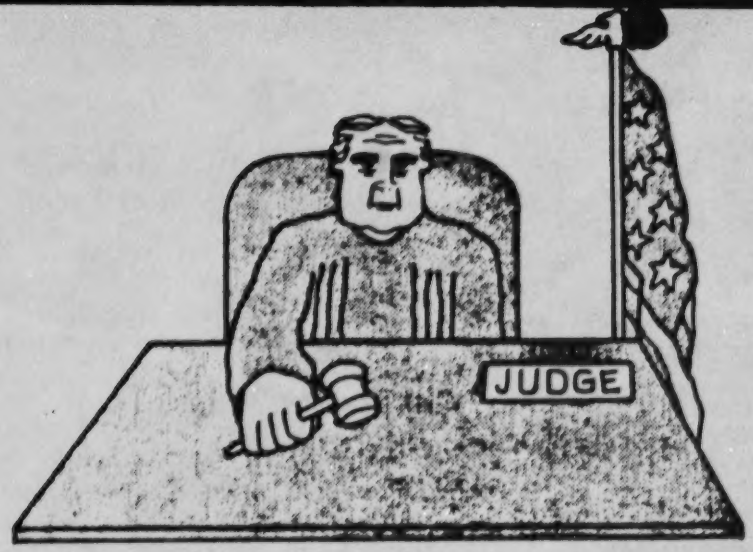
ATTIRE
What to wear?

DO	DON'T
wear shoes	go barefoot
slacks or dress pants	shorts
pantsuits	cutoffs
dresses	halter tops
shirts with sleeves	tank tops

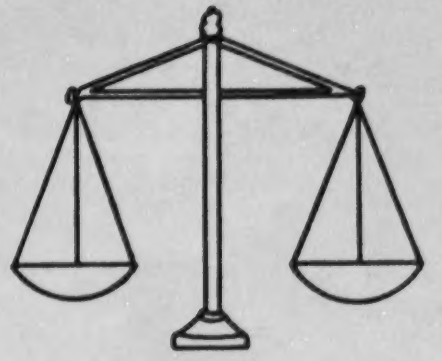
GOOD GROOMING AND APPEARANCE MAKE A FAVORABLE IMPRESSION

Prepared by

Salt Lake City Police Department
Fifth Circuit Court Resource Center
Utah Law-Related Education Project



COURTROOM BEHAVIOR



A GUIDE TO CONDUCT IN THE COURTROOM

TALKING

Do you know why it is important to be very quiet while you are in court, in the court halls, and even in the court building?

There are many reasons. Here is one.

The very future of the defendant who is in court depends on what happens in that court room. So, every word spoken there is important!

To make a fair decision, it is necessary for the judge and/or jury to hear every word!

Can you think of any other reasons?

ROLES PLAYED IN COURTROOM

Prosecutor

The prosecutor is the representative of a sovereignty (city, county, state, federal government). His interest in a criminal prosecution is not to win a case, but that justice shall be done. Constitutional safeguards and limitations exist to protect the innocent and guilty alike, and they compel the prosecutor to seek a determination of whether a suspect is legally guilty or not guilty.

Defense Attorney

The accused person has the right to legal counsel who represents the accused in a court proceeding and looks after his constitutional rights and interests.

Defendant

At this trial, a person who is charged with a crime becomes a defendant, since he is defending his innocence against the accusation that he committed a crime. A defendant does not have to prove his innocence at the trial. Instead, the prosecutor has the burden of proving the person guilty of criminal responsibility beyond a reasonable doubt.

COMMONLY ASKED QUESTIONS

Q. What if a witness says something funny . . . can't I laugh?

A. No!! Your laughter might cause a mistrial. You could influence the jury by laughing.

Q. What if I can't hear a witness?

A. We'll try to sit as close to the front of the courtroom as possible. But this is a real courtroom, not television.

Witnesses don't always speak loudly or clearly. Probably, the judge will ask a witness to speak up for the jury (if there is one).

If you can't hear, please just sit quietly.

ENTERING AND LEAVING THE COURTROOM

Please be as quiet leaving the courtroom as you are entering. Remember, too, you can't leave or enter a courtroom when someone is speaking.

Always be on time when going to court.

Children can cause disruptions. Arrange for someone to care for children.

BAILIFF

Who is the bailiff?

The bailiff is the person who opens and closes court and keeps order in the courtroom.

6. PUNISHMENT (SENTENCING)

The basic punishments are losing property (paying a fine) and losing freedom (imprisonment). Punishment depends on how serious the crime is. But, the judge will also consider whether the person has broken the law before and whether he is really sorry for what he has done.

The judge may sentence a guilty person to join a program to help him stop breaking the law. Such programs are not punishments; instead, they try to solve the problems that result in crime.

****

This simplified outline of our system of justice leaves out many details. For example, persons under 18 who break the law go through Juvenile Court, which has its own special rules.

One point to remember: the police don't decide what happens to a person after he is arrested. The police have one job, the prosecutor another, and judges still another. None of them *make* the laws they deal with: that is the job of the elected legislature.

In this way, no single group can take over the whole system.

OUR SYSTEM OF JUSTICE

What Happens from Arrest to Punishment

1. BEING ARRESTED
2. BEING HELD IN CUSTODY (JAIL)
3. GETTING OUT OF JAIL
4. APPEARING IN COURT BEFORE TRIAL
5. THE TRIAL
6. PUNISHMENT (SENTENCING)

Prepared by:
Salt Lake City Police Department
Salt Lake Fifth Circuit Court
and
Utah Law-Related Education Project

1. BEING ARRESTED

When a police officer knows (or is almost sure) that someone has broken the law, he can arrest that person. Being arrested means simply being held to answer in court for breaking the law.

The police do not make the laws. But they must enforce them. Our society generally holds people responsible for what they do. That is why the police arrest lawbreakers so they can be held responsible in court for what they did.

Nobody can be arrested just because the police *suspect* he broke the law.

Sometimes the police also arrest people because there is a warrant for their arrest. A warrant is a written order commanding the police to arrest a particular person.

Judges issue warrants if they have been shown evidence that a person has *probably* committed a crime. This evidence may come from an ordinary citizen, from police investigation, or from the prosecutor.

The judge must be convinced the evidence is pretty strong before he will issue a warrant.

Judges also issue warrants against people who didn't pay fines or come to court when they were supposed to. If someone has a warrant out against him, he will be arrested when he is found--it doesn't matter how minor his offense is. Many ordinary citizens find themselves embarrassed and in jail because they failed to pay old traffic tickets.

Being arrested is not supposed to be a punishment. But it often is, because of the trouble involved.

Therefore, the police try not to arrest people for minor violations of the law. Instead, they will "give him a ticket" (issue a citation) if they think the person will appear in court on his own, without having to be arrested and held in jail.

More and more, the police give people citations (like traffic tickets) instead of arresting them for minor violations. It is a way of keeping the law fair.

2. BEING HELD IN CUSTODY (JAIL)

After someone is arrested he is held in custody. In exchange for taking away a person's freedom, the government has to take care of him and keep him safe.

This is why arrested persons are searched and handcuffed. Many people get angry when arrested; some become violent (the police can't tell in advance *which* ones). By searching and handcuffing the people they arrest, the police protect everybody.

A handcuffed person can't do much. The police, therefore, don't need much force to control him. Handcuffing keeps people from being hurt.

The police then take the arrested person to jail to be booked, photographed, and fingerprinted. This is done to identify him and to put the facts of his arrest in writing. It also lets the police check whether the person is wanted for any other crimes.

Someone in custody can be asked questions, but he doesn't have to answer. Whether he answers or not, he is entitled to have a lawyer with him.

3. GETTING OUT OF JAIL

Being put in jail is a kind of punishment; but nobody is supposed to be punished until *after* he has been tried and found guilty. Our system of justice, therefore, provides ways to get out of jail while waiting for trial:

A. Simple release-- if a person is a good risk, he may be released simply on his promise to appear in court.

B. Supervised release--others may be allowed to go home under supervision; or they may be sent someplace besides jail for help.

C. Bail--a person can put up money or property as a guarantee that he will appear in court. If he doesn't keep his word, the bail goes to the government and he will be arrested again. (Bailbondsmen make a business of putting up bail for a fee. They usually charge 10% of the bail--$75 if bail is set at $750. They are private businessmen, not public officials.)

The purpose of bail is to make sure a person shows up in court without making him wait in jail. The other kinds of release try to make things fairer for people without much money.

4. APPEARING IN COURT BEFORE TRIAL

Judges are responsible for seeing that everything works fairly in our system of justice. That is why people charged with crimes appear in court at least once before their actual trials. Several things are done at these pre-trial appearances:

1. Within a couple of days at most, the police have to bring the arrested person to court and say what law he broke. This keeps people from being put in jail for no reason.

2. The judge can set bail or release the person if he is still in jail.

3. The judge makes sure the person has a lawyer.

4. If the evidence isn't strong enough for a trial, the charges can be dropped and the person let go.

Most cases do not go to trial. The person pleads guilty and takes his punishment; or he agrees to plead guilty to a lesser crime in exchange for a smaller penalty; or the charges are dropped. But the person always has a right to a trial if he wants one--he can't be forced to plead guilty.

5. THE TRIAL

The trial itself is a kind of argument. The government claims the person has broken some law; the person says he has not. The government must *prove* he did--it's not enough to show he probably did.

The case is argued by a prosecutor, who is a lawyer working for the government. The person on trial is also entitled to a lawyer (the government will get him one if he can't afford it himself).

Each side can present evidence, call witnesses, ask questions, and make arguments. The judge makes sure all this is done according to certain rules of fairness.

Once the case has been heard, it must be decided whether the person has been proven guilty or not. This decision is made by the jury, if the person chose a jury trial, or by the judge.

If the decision (or verdict) is *not guilty*, the person is free to go. But if he is found guilty the next step is for the judge to decide his punishment.

Course and Grade Level: Eighth and Ninth Grades
Social Studies, English and Advisory

Topic: CRIMINAL LAW TERMINOLOGY

Topical Question: What legal concepts are important to know in order to understand the legal justice system?

Time Required: One class period

Resources:

Materials: Cards (8 x 10 index) with terms and definitions written on them in letters large enough to be seen from the back of the classroom.

Terms	Definition or Example to be matched with terms
Due Process	A requirement that legal proceedings are fair.
Miranda	A person suspected of a crime must be told his rights before being questioned.
Adversary System	Our system of justice.
Plea Bargaining	Greg agreed to plead guilty to a lesser crime in exchange for a lighter sentence.
Probation	Report regularly to a court representative after conviction.
Capital Offense	Punishable by death or life imprisonment.
Fourth Amendment	No unreasonable searches and seizures are permitted.
Exclusionary Rule	Evidence obtained illegally cannot be used in court.
Felony	A serious crime--imprisonment for more than one year.
Misdemeanor	A less serious crime.
Eighth Amendment	Bill said his sentence of 8 years for loitering was "cruel and unusual" punishment.
Ex Post Facto	After the fact.
Habeas Corpus	No reason to hold an individual for trial.

Judge — Decides issue of law.

Jury — Decides issue of fact.

Content: Students identify and learn criminal law terms by playing a word matching game and process the concept of fair procedure by setting the rules of the match game.

Objectives: At the end of the lesson, the students should be able to:

1. Define and give examples of each of the stated legal terms.
2. Explain the importance of fair procedure in criminal law.
3. State what the U.S. Supreme Court has established as due process of law.

Procedure:

1. To prepare for the game, write terms and definitions on index cards. The terms should be written in one color of magic marker and the matches in a different color. On the board or poster paper on which the cards are going to be mounted, write the question to be deciphered by the students as they make the matches. (Question is included.) The number is 30 cards, 15 matches. Cards may be placed on a board with hooks or on a large poster paper with tape. Cards should cover over question.
2. Explain to the class that there are fifteen terms and definitions to be matched and a question to decipher and answer underneath. Have the class decide on how to play the game, how to win the game and the reward for winning. Should they play as teams or as individuals? Who turns the cards? Who is the first to start? After the rules have been established, start the game.
3. After the game, process what went on. How were the rules established? Did the game run smoothly because of the rules established or were there conflicts? Were all students treated fairly by the rules? Did they need to make rules as they tried to play the game because of conflicts? Is it fair to make rules during the game? Did individuals or groups dominate the game? Is it important to treat all players the same? Is it important to understand the rules before the game is played? Is there a need for fair procedure? What is fair procedure in court? Review due process.
4. Discuss any questions on the terms.

Teacher Comment: This activity can be used as a review of a unit on criminal justice and to stimulate student interest in the importance of fair procedure. Other terms may be used. Preparation for game could be done by a student as a project.

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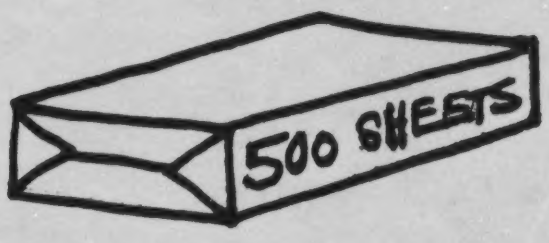
+ 

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(WHAT IS THE SUPREME LAW OF THE LAND?)

Course and Grade Level: Eighth Through Twelfth Grades
Social Studies, Government, Civics,
Sociology, Law-Related Courses

Topic: CRIME IN OUR COMMUNITY

Topical Question: What types of crimes are committed in our community? What is the scope and effect of crime on society?

Time Required: Four to five fifty-minute class periods

Resources:
Materials: Daily newspapers

Worksheet - "Violence Chart" (Copy included)

Content: Through "brainstorming" and using newspapers and a worksheet, students will identify types of crimes, their causes and effects. The impact of television and the newspaper for crime in our society will be discussed.

Objectives: At the end of the lesson, students will be able to:

1. Determine the scope and effect of violent crime on society.
2. Determine the effects of media (television and newspapers) on social behavior.

Procedures:
1. Students are asked to brainstorm for possible causes of crime; i.e., lack of education, poverty, etc. Have students then discuss the following:

   "Do social problems create criminals or do the criminals use these social problems as an excuse for committing crime?"

   Have students discuss this question and support their reasoning with examples of past events.
2. Have students brainstorm what they would rate as "violence" on a T.V. show: i.e., carrying guns, hitting, rough language, slapping, etc. Ask for specific examples that students have seen on television in the past.
3. Turn to the T.V. section of the daily newspaper. Individually or in groups, have students go through the listing of T.V. shows and put a check by all shows known to include violence. Once completed, have students answer the following questions:

a. What is the total percentage of "violent" shows on T.V. today as compared with "non-violent" shows?
b. What percentage of "violent" shows air during prime time before most young children are in bed?
c. What types of programs fall under the non-violent category? When does the majority of this type of show air?
d. Do you feel any of these violent shows have social or educational value? If so, which ones? What other types of shows would you rate high in social or educational value and why?

4. Describe the landmark case of Ronny Zamora. In this case, lawyers held that a child, Ronny Zamora, shot his grandmother as a result of modeling his actions after a character on a violence-based, prime-time T.V. program (Kojak). In light of this, have students launch a more indepth study of violent T.V. fare.

   a. Divide the class into three or four groups (one for each major network).
   b. Assign members of each group to monitor violence in T.V. programs on a night on which many of these types of programs are scheduled.
   c. Have each student use Part I of the attached worksheet on which to log viewing information. Students will note the names of the programs watched, the airing times, descriptions of the violent acts and include a very brief plot synopsis. (Extra copies of the worksheet or additional paper to complete assignment should be available.)
   d. With charts completed, discuss findings in class.

      1) Which programs included the greatest amount of violence?
      2) Which networks carried the greatest amount of violence that night?
      3) In which program, if any, was violence warranted? Totally unwarranted?

   e. Take a class survey on whether or not violent T.V. programs could likely increase the amount of violence in real life. Discuss.
   f. Have students complete Part II of the worksheet in which they examine the scope of violence in the newspaper. Students will note the topic or headline of an article, the location in the paper, the description of the violence, and

pictures related to violence in the article. (Extra copies of the worksheet or additional paper to complete assignment should be available.)

g. After completion of charts, discuss findings:

1) What types of violence were reported (murder, rape, arson, etc.)?
2) What percentage of these activities were included within the first and most-read section of the paper?
3) How many of these articles were accompanied by a photo?
4) Do you feel that any of the descriptions of violence were unnecessary for the general public?

h. Discuss whether reporting violence in newspaper stories increases the amount of violence in society. Should television networks and/or newspapers be forced to more strictly limit their coverage of violence?

Evaluation: Students will participate in discussions, view and critique television shows, complete a worksheet and complete the follow-up assignment.

Teacher Comments: As a follow-up assignment, have students research organizations that exist in their community that victims of violent crimes and their families could turn to for help. Compile a list to distribute among school and community members. (Hospitals, clinics, police departments, legal assistance groups and various community help organizations could be used to start the assignment.)

Invite a speaker from any form of the media to speak to students on violence and T.V., newspapers, etc., following their work.

This lesson plan is based on Citizens on Assignment, A Newspaper in Education Curriculum on Citizenship, by Julie C. Morse and Carolyn Pereira, Chicago Sun-Time/Constitutional Rights Foundation, 1980, pp. 45-47. This publication is available from: Ruth Finn, ANPA Foundation, The Newspaper Center, Box 17407, Dulles International Airport, Washington, D.C. 20041. (Cost is $8.00)

Worksheet

VIOLENCE CHART

Fill in the chart below based on viewing of violent TV shows.

Part I **Television**

Name of Show	Time	Violent Acts	Brief Plot Synopsis

Fill in the chart below based on information found in articles describing violent acts.

Part II **Newspaper**

Headline/Topic	Page	Description of Violence	Violence-Related Photo (✓)	Brief Summary

Morse, Julie C., and Carolyn Pereira, Citizens on Assignment, A Newspaper in Education Curriculum on Citizenship, Chicago Sun-Times/ Constitutional Rights Foundation, 1980, p. 47.

Course and Grade Level: Eighth to Twelfth Grade
U.S. History, English, Law and Government

Topic: FREEDOM OF PRESS AND PRIVACY

Topical Question: What conflicts can we expect between the right to privacy and the guarantees of a free press as the means of investigation by the news media become more sophisticated?

Time Required: Three to four fifty-minute class periods

Resources:

Materials: Fager, Christopher, "The Emerging Student Press," Update on Law-Related Education, Winter 1978, pp. 23-26. (Copy included)

Kelly, Cynthia A., "The Struggle for a Free Press," Update on Law-Related Education, Winter 1978, pp. 16-17. (Copy included)

On Privacy, A Casebook of the Law in A Free Society Project, Santa Monica, California, 1972, pp. 104-105, pp. 146-147. (Copy included)

People: A Journalist

Content: Students will gain increased appreciation of the importance of a free press, but will also explore the limits of that freedom when it invades individual privacy.

Procedure: 1. Introduction/Grabber: Ask the students to imagine that they have just been asked by the principal of the school to be the advisor for the student newspaper. The staff of the paper has prepared a number of articles for the next issue of the paper. You must decide which, if any, to discourage or forbid the students from publishing:

a. An article entitled, "Sexually Active Students Fail to Use Contraception." The article included results of a student survey of attitudes regarding birth control as well as some information on contraceptives. The district has a school board policy forbidding the teaching of sex education. (This case is discussed in the Update article.)
b. An article critical of the administration of the high school. The article referred to the principal as "inept and lazy."
c. A story about a teacher on the staff who was supposedly having a relationship with a former student.

d. An article about juvenile delinquency which includes a list of students who have been arrested some time during that academic year.
e. An editorial encouraging the state legislature to consider decriminalizing marijuana use.

Divide the class into five groups and ask each group to deal with one article. The group should select a spokesperson to present the group's decision and reasons to the rest of the class. During the debriefing, have students distinguish between those instances when they would merely discourage students from running a story from those situations when they would forbid students from printing a story. Indicate that the latter is prior restraint, and is very rarely tolerated by courts.

(For teachers' reference, there is a helpful article on student press cases in Update, Winter 1978, pp. 23-26, titled "The Emerging Student Press." (Copy included)

2. Historical Perspective: Assign the article, "The Struggle for a Free Press" by Cynthia Kelly. This material can be supplemented with materials related to freedom of press from a textbook. Important points to highlight in discussion are the relatively recent nature of the right and the importance of a free press to countervail against government tryanny.
3. Free Press versus Privacy: Time, Inc. v. Hill (1956). Invite a journalist into class to assist in a discussion of this case. Using the case method and tips on utilizing resource persons contained in Section One of this handbook, discuss the facts, issues/analysis and reasoning/decision. Underscore the relative importance of the privacy and free press values raised by the case. Allow the journalist to share her/his professional feelings.
4. Future scenarios: Lead the class in a brief discussion about the ways in which technological advances may change the way the news media gather and report the news. Encourage fanciful imagination during this discussion because the more creative possibilities will be utilized later.

Next, have students write news stories taking place in the year 1995. The stories should describe a court case where an individual has sued a journalist for using modern technology to discover very personal information and publish that information.

Evaluation: The scenarios could be evaluated for their demonstration of students' synthesis of the concepts. The teacher could also use one of the better scenarios and have students write a court opinion for the case giving their decision and reasoning.

Teacher Comments: An optional way to present the Time, Inc. v. Hill case would be to assign students to present oral arguments for each side of the case. The resource person could be asked to participate in the debriefing by offering additional arguments and commenting on how journalists themselves make those decisions.

There are several ways this lesson might be offered. The class could begin on Thursday with the Grabber and the historical article. The class could discuss Time, Inc. on Friday, and the future scenarios would be a weekend assignment. An option providing more flexibility would be to do the scenarios in class. This could possibly be done in small groups.

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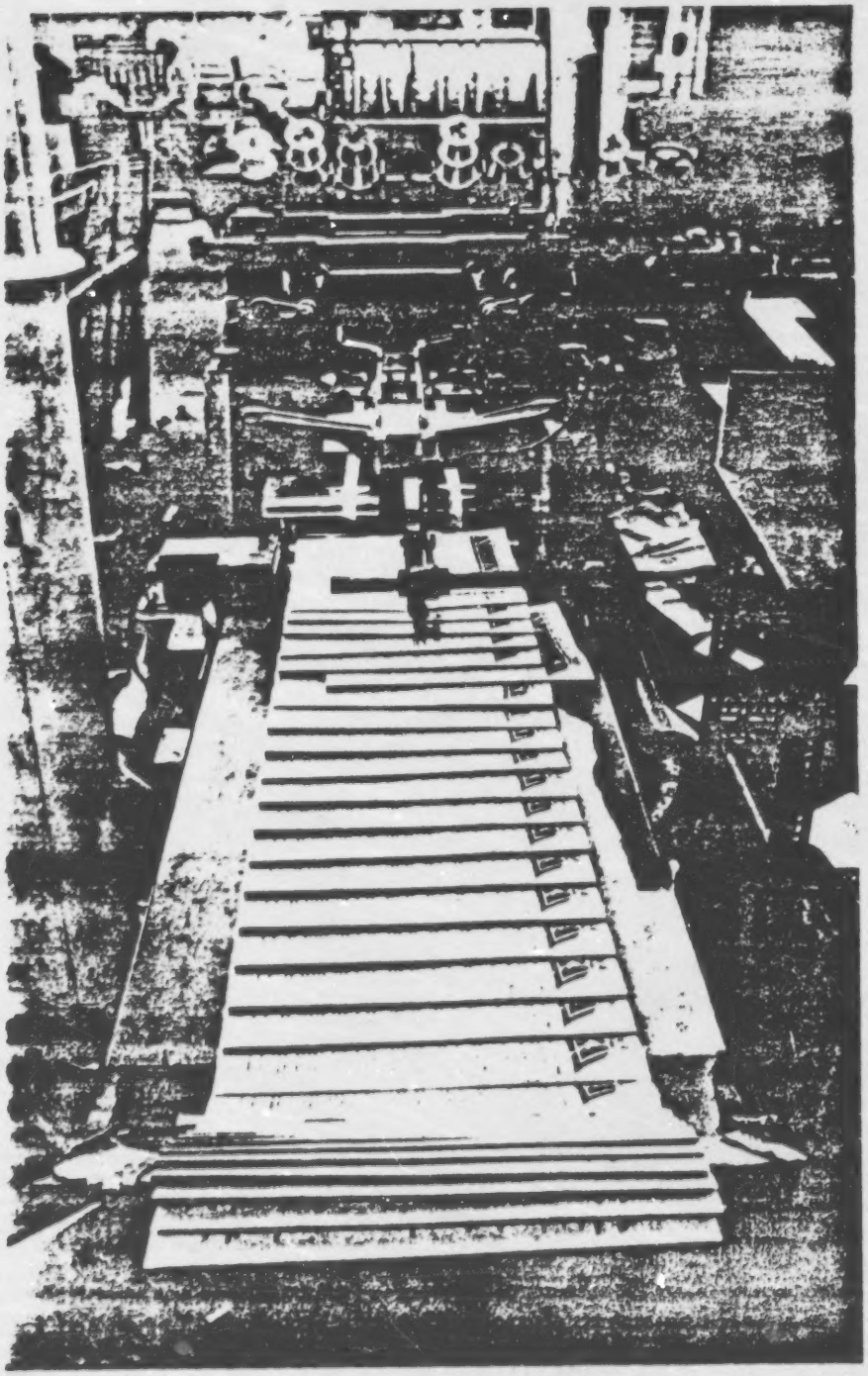

The Emerging Student Press

Student papers once just covered proms and sports—now they report on sex and other controversial issues

Christopher Fager

Students and teachers are discovering —often under difficult circumstances— that actually experiencing First Amendment/free press problems is one way to learn about constitutional rights. Student journalists today are increasingly willing to deal with such tough issues as drug abuse, adolescent sexuality, and the shortcomings of schools, and to delve deeper into more traditional matters than they have previously done. And the more they get into controversial areas, the more they run the risk of problems with confidentiality of sources, freedom of information, and all the other tangles that bedevil their real-world counterparts.

Some of these tangles lead to long court struggles and costly appeals, resulting in the enunciation of new con-

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stitutional principles, others are resolved quietly, through negotiation or compromise. Either way, student journalists are learning lessons in democracy which can serve as instructional experiences for the entire student body.

Confidentiality of Information

What does a reporter do when he or she has information about criminal activity and the police demand to have that information? Does the First Amendment protect student reporters from disclosing the sources of their information? Should the First Amendment protect student reporters in this situation?

Students in Eldon, Missouri learned the answer to these questions—the hard way. Working on the school paper, students produced a story entitled: "It's A Problem: Police-Youth Relationship." The article, which discussed animosity between local police and youth, quoted five alleged witnesses to a marijuana arrest as saying that no marijuana was seen or discovered until it fell from the pocket of the arresting officer.

Shortly after the story appeared, the students and their faculty advisor received subpoenas to appear in court and identify their sources for the story. The county prosecutor, who caused the subpoenas to be issued, wanted to learn of any evidence which might show that the police acted improperly. Naturally, the lawyer for the defendant was also interested in this information, for if the story were accurate, and the police had planted the drugs, the defendant would be found not guilty.

What was the obligation of the students and their faculty advisor? To reveal their sources—witnesses who had asked to remain anonymous—would damage their credibility and make it difficult to get confidential information in the future. On the other hand, the U.S. Supreme Court has ruled that in most situations, unless there's a state law to the contrary, reporters must disclose information relating to criminal conduct. (*Branzburg v. Hayes*, 408 U.S. 465 [1972].) And, if the students did not disclose their sources, an innocent person might be convicted for a crime he did not commit.

In response to the subpoena, the students went to the courthouse. By now, the students had an attorney of their own. If they failed to provide the information requested, they could face contempt of court citations and possible jail terms.

Before going before the judge, the students and their teacher met with the prosecutor. Was there some way to settle the matter without a confrontation? If the students would simply give the prosecutor the information, they would be allowed to leave.

The students and teacher gave the prosecutor a firm "no" to this request. According to the teacher: "My students were reporting in good faith. They knew that the people did not want their names disclosed. It was a case of common sense and conscience . . . "

The stage was set for a classic free press/fair trial conflict but, fearing an unproductive confrontation, neither the prosecutor nor the defense lawyer attempted to bring the students before the judge to force disclosure of the information. The prosecutor decided not to prosecute the case, and the defendant was placed on probation.

The students were thus able to maintain the confidentiality of their source. They also learned something about the law governing disclosures—and something about how a conflict may be avoided.

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Students' Right to Know

Do student government officials have the right to withhold from students the actual vote counts in a student election? The student government at White Plains (New York) High School believed it had such a right, and it said no to a request from a student editor for the number of votes each candidate had received.

The student editor insisted that the election results "belonged to everyone, especially the students of White Plains High School." Suppression of the vote tallies, said the editor, "was tantamount to vote tampering."

For their part, student government officials did not want the results made public because they feared that publicizing them might adversely affect a run-off election to be held four days later. They were afraid some students might vote for whichever candidate received a plurality in the original election. There was also another problem: students who had lost the election by large margins might be humiliated if the results were made public.

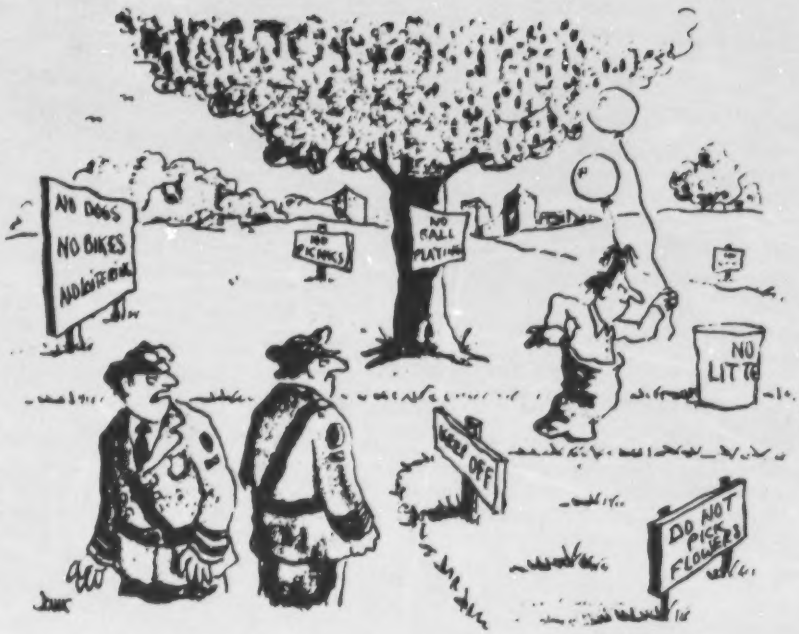
The editor refused to accept either reason and offered arguments as to why the tallies should be released. Among those reasons was the spectre of election fraud—student reporters had seen some students voting twice. Citing the New York State Freedom of Information Act, and the public's right to know the editor announced that he was ready to take legal action to compel release of the vote counts. Student government representatives complained about what they called "threats" from the student editor.

In this case, however, as in the confidentiality of information case, legal action wasn't necessary. After consulting a lawyer, the student government backed down and agreed to release the election results.

Freedom from Prior Censorship

When Lauren Boyd and Gina Gambino, student editors at Hayfield Secondary School, Fairfax County, Virginia, set out to investigate knowledge about contraception among students, they had no idea their names would end up in federal law books. Today, the case of *Gambino v. Fairfax County* represents an important precedent for the First Amendment rights of student journalists.

Boyd and Gambino wanted to publish an article entitled "Sexually Active Students Fail to Use Contraception," but their school principal objected, citing a school board policy forbidding the "teaching" of sex education. The principal, Doris Torrice, was willing to permit publication of those sections announcing results of a canvass of student attitudes toward birth control, but she wanted passages containing information on contraceptives deleted. After losing an appeal of the principal's decision before the school board, Boyd and Gambino decided to sue their school officials. The two young women believed their constitutional rights had been violated.



"Keep an eye on him, Lou. I'll go call the sign department."

Going to court to secure civil rights is a venture not to be undertaken lightly. For students, like adults, litigation is time-consuming, unpredictable and expensive.

To Boyd and Gambino, the element that mattered most was time. It was December 1976 when they filed their law suit against county school officials in United States District Court in Alexandria, Virginia. As high school seniors, they were set to graduate in June, 1977. They wanted their censored article to run in their paper, *The Farm News*, before graduation.

A trial of their case was set for February 15th. After trial, it did not take the trial judge long to decide the case. On February 23, District Judge Albert V. Bryan, Jr. decided that the students' First Amendment rights had indeed been violated. Bryan ruled that the school could not interfere with the publication of the article in the school paper. The students had won a victory—or so they thought.

Two weeks later, the school board decided to appeal the decision, asking Judge Bryan to "stay" his order until the appeals court decided the case. If the article were to run, argued the school, that fact would "moot" the school's claim that it had the power to stop publication, there being no point in trying to stop something that had already happened.

Hearing that the school board would file its appeal as quickly as possible, Judge Bryan stayed his order pending the outcome of the school's appeal. The case was now before the United States Court of Appeals for the Fourth Circuit in Richmond. An oral argument was scheduled for May 5—one month before graduation, but the death of one of the three judges set to hear the case brought an end to the students' hope of a decision before the end of the school year.

When the students graduated, the case was still pending. The final decision in the case was not released until October 17, nearly 11 months after the initial censorship. The students won, but it took the judicial system nearly a year to vindicate constitutional rights to which they were entitled.

The decision, however, does stand as an important precedent for student journalists, and a brief look at the court's reasoning will give us additional insight into such student press conflicts.

School officials offered several arguments to support their action. They contended that the First Amendment did not apply to *The Farm News* because it is an "in-house" organ of the school system, founded and sponsored by the Fairfax County School Board. They also argued that even if the First Amendment did apply, the article was unprotected because its publication would contravene a school policy prohibiting the teaching of birth control as part of the curriculum.

The District Court opinion, affirmed by the Court of Appeals, rejected both arguments. District Court Judge Albert V. Bryan noted that the extent of the schools' involvement in providing funding and facilities does not determine the applicability of First Amendment guarantees. Judge Bryan also held that the contents of the school newspaper could not be considered "an integral part of the curriculum." Just as the school library contained materials and information on birth control, so too could the school newspaper, he held.

When the case was appealed, Appeals Court Judge Donald Russell cast a lone dissenting vote. Since the School Board clearly has the authority to determine what should or should not be included in the curriculum, he argued, it would be a "mockery" of such authority to allow the policy to be frustrated and contravened through an article in the school newspaper.

Valuable Learning Experiences

Three different cases, three different resolutions, but all valuable learning experiences for student journalists and students alike. As student newspapers continue to grow in quality and vitality, student journalists will be more and more involved in First Amendment conflicts. If these experiences can be springboards to learning about law and legal processes, then we will come that much closer to fulfilling Justice Stewart's observation that "the vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools." And who is better qualified to protect those freedoms than a free and responsible press? □

Major Student Press Cases

Dickey v. Alabama, 273 F. Supp. 613 (1967). A federal District Court ruled that a university had acted unconstitutionally in suspending the editor of an official, school-sponsored newspaper for writing an editorial critical of state officials. "The imposition of such a restraint," wrote the court, " . . . violates the basic principles of political and academic expression as guaranteed by our Constitution."

Tinker v. Des Moines, 393 U.S. 503 (1969). Although not directly addressing issues of free press, *Tinker* is the landmark decision on the First Amendment rights of students. The Supreme Court ruled that high school students may not be prohibited from expressing themselves, in this case by wearing black armbands to protest the Vietnam war, unless the school can show that substantial disruption of or material interference with school functions would result. Teachers and students do not "shed their constitutional rights at the schoolhouse gate," the Court said.

Trujillo v. Love, 322 F. Supp. 1266 (1971). A federal District Court ruled that the fact that community college officials had labeled a newspaper a "teaching tool," when in reality it had functioned as a forum for student expression, did not permit censorship. "Having established a particular forum for expression, officials may not then place limitations upon the use of that forum which interfere with protected speech," the court said.

Shanley v. Northeast Independent School District, 462 F. 2d 960 (1972). A U.S. Court of Appeals ruled unconstitutional the suspension of five high school seniors for the publication of an underground newspaper which advocated review of marijuana laws and contained information on birth control and abortion. The court ruled that "expression by high school students cannot be prohibited because other students, teachers, administrators, or parents may disagree with its content."

Vail v. Board of Education, 354 F. Supp. 592 (1973). A federal District Court ruled that school officials may not impose a flat ban against all underground publications. The decision said, "The Board has the burden of telling students when, how and where they may distribute materials, consistent with the basic premise that the only purpose of any restrictions on the distribution of literature is to promote the orderly administration of school activities by preventing disruption and not to stifle freedom of expression."

Joyner v. Whiting, 477 F. 2d 456 (1973). The U.S. Court of Appeals upheld a District Court's decision that a college may not withdraw funding, fire editors, or in any way suppress a student publication merely because it dislikes or disagrees with the newspaper's editorial content.

Bayer v. Kinzler, 383 F. Supp. 1164 (1974). The U.S. Court of Appeals affirmed a lower court's ruling that the seizure of a "Sex Information Supplement" to an official high school paper by the administration was unconstitutional. The supplement was "primarily composed of articles dealing with contraception and abortion" and was "serious in tone and obviously intended to convey biological information rather than appeal to prurient interests." The court continued, " . . . it is extremely unlikely that distribution of the supplement will cause material and substantial interference with schoolwork and discipline."

Trachtman v. Anker, 46 U.S.L.W. 2157 (1977). Student journalists wanted to disseminate a questionnaire to students "requiring rather personal and frank information about sexual attitudes, preferences, knowledge and experience," and publish the results in the school newspaper. Fearing that such a questionnaire would "force more emotionally immature individuals to confront difficult issues prematurely," and possibly result in students suffering psychological harm, the school board refused the request. While acknowledging that protected First Amendment rights were involved, the court ruled that school authorities had a "rational basis for the decision" and upheld their action.

Fager, Christopher, "The Emerging Student Press," Update on Law-Related Education, Winter 1978, pp. 23-26.

The Struggle for a Free Press

Journalists had to fight hard, but eventually free press prevailed

Cynthia A. Kelly

Bob Woodward and Carl Bernstein would have had a tough time as journalists in Colonial America. The concept of freedom of press as we know it today did not exist for most of the colonial period. While government officials today would be very surprised if reporters didn't keep an eye on them, colonial rulers expected that newspaper people would treat them with respect and would not rock the boat.

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For example, government authorities suppressed the colonies' first newspaper, *Publick Occurrences,* after just one issue. Exactly how did we progress from press censorship to watchdog reporters like Woodward and Bernstein?

When the colonists came to America, they inherited the common-law restrictions on the press which existed in England. In the sixteenth and seventeenth centuries, criticism of the king or of the English government was a crime known as "seditious libel." Such attacks upon the king, his ministers, or their policies subjected the publishers to criminal prosecution. And this law was enforced. For example, in one thirty-year period there were over seventy prosecutions for seditious libel. In addition, all books and papers had to be registered with the Stationers' Company, a government-created monopoly, and submitted to an official licensor before publication.

In 1683, the king gave licensing power to the governors he had appointed to rule over the American colonies. He reasoned that "great inconvenience may arise by the liberty of printing," and gave governors the right to ban any publication that hadn't been previously licensed. Just as in England, all writers had to submit their materials for approval before publication.

It was this power which was used to suppress the first newspaper. On September 25, 1690, Benjamin Harris published *Publick Occurrences* in Boston without government permission. The major story of the first and only issue described an attack on the French in Canada, and Harris charged that someone persuaded the Indians, who were supposed to be part of the war party, not to show up at the last minute. In addition, he included an article describing a

scandal in the French court, in which the king was said to have seduced his daughter-in-law.

By publishing these stories, Harris succeeded in outraging both the Puritan clergy and the government authorities. The governor of Massachusetts therefore issued an order suppressing the paper on the grounds that it had been published without a license. It was to be ten years before anyone was to attempt to publish another newspaper.

Obviously, the legal restrictions made it hard for would-be publishers, but there were indirect pressures operating to restrict freedom of the press. Because much of the population was illiterate, a publisher was never sure his paper would sell enough copies to be a commercial success. Most publishers were forced to supplement their income by serving as printers for the government, and their economic dependence on the authorities naturally led to a less critical style of reporting.

In addition, government authorities controlled the postal system. Each newspaper was forced to make an individual arrangement with the postmaster general in order to assure its distribution. Typically, the postmaster general set high rates or delayed distribution of those periodicals he did not like for one reason or another.

As a result of these limitations, the two newspapers established in Boston in the early 1700's mostly consisted of official and commercial news. Both were sanctioned by government authorities and were careful to steer clear of trouble.

In 1721, however, James Franklin began the *New England Courant*, a newspaper which was to play a key role in shaping the definition of freedom of the press. James Franklin, elder brother of Ben, wanted to include articles about current issues and personalities. He asked his literary friends to furnish him with short pieces "serious, sarcastic, ludicrous or otherwise amusing." In short, Franklin's newspaper offered citizens the chance to criticize the political and religious establishment.

Franklin may have been encouraged to begin the newspaper because of a change in the law the previous year. A dispute had arisen between the assembly and governor, with the assembly wanting its views printed publicly for all the colonists to read. When the governor refused, the assembly informed him that he no longer had any licensing authority, since the king had been stripped of such power by Parliament. When the governor responded by asking the assembly to pass a new licensing law, it refused.

The *Courant* was controversial from the beginning. It immediately launched an attack against two of the most powerful leaders of the Puritan clergy: Increase and Cotton Mather. Boston was in the midst of a smallpox epidemic and the Mathers advocated inoculation to control the spread of the disease. The *Courant* began a crusade against their "unscientific" views.

Unfortunately for the Mathers, the governor no longer had the licensing power, so the paper could not be summarily shut down. Even though the *Courant* was spared the fate of *Publick Occurrences*, however, Franklin was not out of danger. The seditious libel law was still in effect, and the governor could prosecute after publication for violation of this law.

It was inevitable that Franklin would eventually clash directly with government officials, and in the summer of 1722 it happened. He published an article which attacked Governor Shute himself for not acting vigorously to capture a pirate vessel preying on New England shipping. Since shipping was essential to Boston's economy, Franklin's charge was serious.

The governor responded by ordering Franklin to refrain from seditious libel and calling him before the General Court, which proceeded to throw him in jail for his high affront. Franklin remained in jail until the General Court adjourned three weeks later. Although he apologized for printing deprecatory comments about the governor, he resumed his attacks on the political and religious establishment as soon as he was released. He complained about the governor's absences, noted the amazingly large number of religious hypocrites in the community, and even published a satirical piece on the General Court for imprisoning him.

It was inevitable that Franklin would eventually clash with government officials, and in the summer of 1722 it happened

This was more than those in power could tolerate. The General Court therefore issued an order declaring that Franklin be strictly forbidden from printing the *Courant* or any publication of a like nature, unless the publication was first reviewed by the secretary of the province. This constituted a bold attempt to reestablish the old licensing power. Had it succeeded, our concept of freedom of the press might have evolved quite differently.

Franklin tried to sidestep this order by publishing another issue of the *Courant* with his brother's name as publisher. The authorities saw through the subterfuge and tried to act against Franklin, but the grand jury refused to indict him for contempt of court for publishing without receiving permission. Apparently the grand jury, composed of citizens from all walks of life, simply did not think that Franklin should be punished for publishing his opinions. Frustrated in their attempt to indict Franklin, the government authorities gave up, and Franklin proceeded to publish the *Courant* without interference.

The *Courant* case was thus significant in developing a free press in America. First of all, it established the concept, later to be upheld by the United States Supreme Court in its interpretation of the First Amendment, that government authorities could not censor prior to publication. The *Courant* case is thus a landmark in the struggle against press licensing. Secondly, and perhaps even more importantly, the case established that the authorities were not all-powerful, but rather could fail in the face of public opposition. When the grand jury refused to indict Franklin, they were in effect endorsing the concept of a vigorous, independent press, responsible to its readers and not to government officials.

Thus the *Courant* case and the more famous *Zenger* case—the 1734 New York ruling which protected publishers from conviction for seditious libel if they could prove that the allegations they had published were true—spelled the beginning of the end for government authority over newspapers, and prepared the way for free press as we know it. □

Kelly, Cynthia A., "The Struggle for a Free Press," Update on Law-Related Education, Winter 1978, pp. 16-17.

Time, Inc. v. Hill (1956)

In 1952, James Hill and his wife and five children became the subjects of a front page news story. After being held hostage in their suburban home for 19 hours by three escaped convicts, the family was released unharmed. In an interview with newsmen after the event, Hill stressed that the convicts had treated the family courteously, had not molested them, and had not been at all violent. Later the convicts were apprehended in a widely publicized encounter with the police which resulted in the killing of two of the convicts. Shortly thereafter the family moved to Connecticut, and Hill discouraged all efforts to keep them in the public spotlight through magazine articles or appearances on television.

In the spring of 1953, Joseph Hayes' novel, The Desperate Hours, was published. The story depicted the experience of a family of four held hostage by three escaped convicts in the family's suburban home. But, unlike Hill's experience, the family of the story suffer violence at the hands of the convicts; the father and son are beaten and the daughter is subjected to a verbal sexual insult.

The book was made into a play, also entitled The Desperate Hours, and an article about the play appeared in Life in 1955. It was entitled, "True Crime Inspires a Tense Play," with the subtitle, "The Ordeal of a Family Trapped by Convicts Gives Broadway a New Thriller, 'The Desperate Hours'". The text of the article read as follows:

> ...three years ago Americans all over the country read about the desperate ordeal of the James Hill family, who were held prisoners in their home outside Philadelphia by three escaped convicts. Later they read about it in Joseph Hayes' novel, The Desperate Hours, inspired by the family's experience. Now they can see the story re-enacted in Hayes' Broadway play based on the book and next year will see it in his movie.
>
> The play...is a heartstopping account of how a family rose to heroism in a crisis. Life photographed the play during its Philadelphia try-out, at the house where the Hill's were beseiged. On the next page scenes from the play are re-enacted at the sight of the crime.

The pictures on the ensuing two pages included an enactment of the son being "roughed-up" by one of the convicts, entitled "Brutish convict," a picture of the daughter biting the hand of the convict to make him drop a gun, entitled "Daring Daughter," one of the father throwing his gun through the door after a "Brave Try" to save his family.

Hill sued and sought damages under New York's "Right to Privacy" statute on charges that the Life article was intended to, and did, give the impression that the play mirrored the Hill family's experience, which to the knowledge of Life "...was false and untrue." Time, Inc., publisher of Life magazine defended by saying that the article was "a subject of legitimate news interest, a subject of general interest and of value and concern for the public" at the time of publication, and that it was "published in good faith without any malice whatsoever...."

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1. Was the story that appeared in Life magazine a substantial invasion of the Hill family's right to privacy?

2. Should the Hill family lose their right to privacy because they became "public figures?"

3. Should the fact that they discouraged publicity at the time increase their right to privacy?

4. Should the public's interest in freedom of the press outweigh the Hill's right to be "let alone?"

From On Privacy, A Casebook: Selected Readings for Teachers. Reprinted with permission. Copyright 1972, 1976, 1977 by Law in a Free Socity, pp. 104-105 (1972 Edition).

Time, Inc. v. Hill (1956)

After the trial the jury awarded Hill $50,000 compensatory and $25,000 punitive damages. On appeal the appelate division of the New York Supreme Court ordered a new trial as to the amount of damages but upheld the jury verdict of liability. The Court said: "Although the play was fictionalized, Life's article portrayed it as a re-enactment of the Hills' experience. It is an inescapable conclusion that this was done to advertise and attract further attention to the play, and to increase present and future magazine circulation as well. It is evident that the article cannot be characterized as a mere dissemination of news, nor even an effort to supply legitimate newsworthy information in which the public had, or might have, a proper interest." At the new trial on damages, a jury was waived and the court awarded $30,000 compensatory damages without punitive damages. Time, Inc. appealed the case to the United States Supreme Court.

Mr. Justice Brennan wrote the opinion of the Court reversing Hill's award and sending the case back to the New York courts to determine whether the article was written with knowledge of its falsity or reckless disregard for the truth.

Brennan, joined by Mr. Justice White and Mr. Justice Stewart, wrote that "...sanctions against either innocent or negligent misstatement would present a grave hazard" to constitutionally guaranteed freedom of the press. But, as was pointed out in the New York Times v. Sullivan case, neither calculated falsehood, nor false statements made with reckless disregard for the truth enjoy constitutional immunity.

Mr. Jutice Brennan then concluded that since "the proofs [at trial] reasonably would support a jury finding of innocent or merely negligent misstatement by Life, or a finding that Life portrayed the play as a re-enactment of the Hill family's experience reckless of the truth or with actual knowledge that the portrayal was false," the case should go back to the New York courts for determination on that point.

In separate opinions in which they concurred in the reversal, Mr. Justice Black and Mr. Justice Douglas both suggested that the freedom of the press should be even wider than the majority opinion indicated. Mr. Justice Black said:

> The words "malicious" and particularly "reckless disregard for the truth" can never serve as effective substitutes for the first amendment words: "...make no law...abridging the freedom of speech, or of the press..."

Mr. Justice Douglas felt that the fictionalized treatment of the Hills' experience was as much a part of the public domain as "would be a water color of the assassination of a public

official." And, since the material was in the public domain, "(s)uch privacy as a person normally has ceases (when) his life has ceased to be private."

"Once we narrow the ambit of the first amendment, creative writing is imperiled and the 'chilling effect' on free expression which we feared in (earlier cases) is almost sure to take place."

Mr. Justice Harlan also wrote a separate concurring opinion, but, though he also voted for reversal, he felt that the Hills and people like them should be protected not only from invasions of privacy arising from morally culpable misstatements, but also from those caused by negligent reporting. The First Amendment, he felt, should not insulate the press from being forced by the states to exercise the same degree of care in their work that doctors and lawyers were held to -- a reasonable standard of due care.

Mr. Justice Fortas, with whom Mr. Chief Justice Warren and Mr. Justice Clark joined, dissented:

> There are great and important values in the society, none of which is greater than those reflected in the First Amendment, but which are also fundamental and entitled to this court's careful respect and protection. Among these is the right to privacy, which has been eloquently extolled by scholars and members of this court. Judge Cooley long ago referred to this right as the right "to be let alone."

After discussing that the right to privacy is, and long has been, one of our most basic rights, Mr. Justice Fortas concluded:

> The court may not and must not permit either public or private action that censors or inhibits the press. A part of this responsibility is to preserve values and procedures which insure the ordinary citizen that the press is not above the reach of the law.... [I]n areas <u>far beyond the need of news</u>, comment on public persons and events, discussion of public issues and the like would be no service to freedom of the press, but an invitation to public hostility to that freedom. This Court cannot and should not refuse to permit under state law the private citizen who is aggrieved by the type of assault which we have here and which is not within the specially protected core of the First Amendment to recover compensatory damages for a recklessly inflicted invasion of his rights.

<u>On Privacy</u>, A Casebook of the Law in A Free Society Project, Santa Monica, California, 1972, opinion as summarized and edited in <u>On Privacy</u>, Law in a Free Society Project, 1977.

Course and Grade Level: Ninth Grade
Social Studies

Topic: WHAT IS LAW?

Topical Question: Why do we have laws? How do laws affect our daily lives?

Time Required: Five class periods

Resources:

Materials: Copy of the previous day's newspaper.

Arbetman, Lee P., Edward T. McMahon, and Edward L. O'Brien, Street Law, Second Edition, St. Paul: West Publishing Co., 1980, Chapter 1, Student Edition, pp. 2-31; Teacher's Manual, pp. 23-49.

Quigley, Charles N., On Authority, A Casebook of the Law in a Free Society Project, Santa Monica, California, 1973, pp. 27-35. (Copy of the story, "Sarnia.")

Content: Laws affect everyone. Through this unit the students will become acquainted with what law is and how laws are made. The purpose of laws and the responsibility of students in obeying the law will be emphasized.

Objectives: At the end of the lesson the students will be able to:

1. Explain how laws affect their lives.
2. Give examples of how laws bring order into a world full of conflicting interests.
3. Define laws as obligatory rules sanctioned by a majority of the people.
4. Describe the lawmaking process and distinguish between criminal and civil law.

Procedure: First Day

1. Have the students "mind-walk" and recall all of the things they did yesterday. How many times did laws affect their actions? What are some laws we take for granted? What would happen if we didn't have these laws?
2. Hold up the front page of yesterday's newspaper. Ask if there are laws regulating the publishing of newspapers. What laws are mentioned in the articles on the front page? Discuss why it is necessary to have so many laws.

Second Day

1. Read the story, "Sarnia." Discuss each question in depth focusing on each type of leader. Discuss what it would be like to have no leaders.
2. Ask what school would be like if there were no rules. Some possible situations to present would be:

   a. No rules in the cafeteria;
   b. No rules against cheating;
   c. No policies about tardiness.

   Would they like school if there were no rules?

Third Day

1. Ask the students how many times they have heard "there ought to be a law". Have them give examples.
2. Ask them to name some laws with which they are familiar. List on chalk board.
3. What are some common characteristics in the laws listed?

   a. They are rules we are obligated to obey.
   b. Disobedience of these rules brings reactions.
   c. Most people obey these rules.
   d. These laws are enforced by law enforcement officers.
   e. Courts decide upon the punishment for offenders.
   f. Laws are passed by Congress, State Legislatures, County Commissions, City Councils. Administrative agencies also pass laws.
   g. Laws are intended to serve the people.

Fourth Day

1. Who decides what should be a law?

   a. Congressional Representatives.
   b. State Legislators.
   c. County Commissioners.
   d. City Councilmen.
   e. Members of Administrative Agencies.

2. How does each pass a law? Give an example of how a hypothetical bill is passed by a legislative body and by an administrative agency.

Fifth Day

1. Explain the differences between criminal law and civil law. Ask the students to give examples of each.
2. Use the first four problems in Street Law, Student Edition, pages 4-9, to help the students identify the differences between criminal law and civil law. Teacher's Manual, pp. 24-32.
3. Briefly explain how the criminal court system and the civil court system work.

Evaluation: Students will demonstrate their understanding of the unit by answering the following question as a take-home test:

John recently received a traffic ticket for driving 50 MPH on downtown State Street. Since he has received numerous traffic tickets during the past two years, he is on probation. His latest ticket gives him more than 200 points on his driving record. He has been informed his driver's license is to be suspended for one year. John says he needs his car to get to work each day at Kennecott, so he will continue to drive even if his license is suspended. What would you say to John? Would you disagree with him? Why or why not?

"Sarnia"*

[Editor's Note: The following selection is from a secondary text, Conflict, Politics and Freedom, and has been chosen because it is illustrative of some of the problems that might arise in the evolution of government and of the quality of available student materials. Only the first sections of the story of Sarnia have been included.]

Would You Like To Be Ruled By One Man?

King Rumblebutter III of Elkland owned large amounts of land on a continent discovered by his sailors long ago. He wanted some of his people to begin colonies in the new land so they could trade goods they produced there with his people in Elkland.

The king gave his friend Old Ugo a large piece of land on the new continent. He wanted him to take settlers to the new land and to begin a colony. He gave Old Ugo the right to rule the colony in the name of the king.

Old Ugo asked people in Elkland to go with him to the new land. Many people wanted to go. Some were Old Ugo's friends. They wanted to go so they could trade with Elkland and become rich. Some people did not have enough money to own land in Elkland. They wanted to go to the new colony where land was plentiful and cheap so they could own their own homes and farms. Some people were forced to go with Old Ugo by the king. They were people who had made trouble for the king in Elkland. The king wanted to get rid of them.

A ship left Elkland for the new land in the winter of 16__. Old Ugo ruled the people on the long trip across the ocean. His word was law. He was much older and some said much wiser than most of the people on the ship, and he had been a leader in Elkland.

When someone had an argument, Old Ugo was the judge. He decided who was right. He decided who was wrong. He decided what the punishment would be for breaking his laws.

Some of the people did not like all of the things Old Ugo did. But, he was their leader and none of them had ever been a leader. They had never made laws. They had never had to settle arguments and to decide who they thought was right or wrong. They had never had to think about whether or not people should be punished for breaking Old Ugo's laws. In fact, they had never been given the chance to think much at all. Most of their thinking had been done for them by Old Ugo or the king.

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*from Conflicts, Politics, and Freedom by Charles N. Quigley and Richard P. Longaker (Lexington, Massachusetts: Ginn and Company, 1968), pages 1-9. © Copyright 1968. Reprinted with permission.

From the time they were children most of the people had been told that they should do their work and be responsible. To be responsible meant always to obey their rulers, to obey the laws their rulers made, and to show respect for their rulers. They knew that if they did not do as they were told, they would be punished.

WHAT DO YOU THINK?

1. Suppose these people lost their ruler. Who would take his place?

2. Do you think, if you had been raised as these people were, you would be able to rule yourself wisely? Why?

3. Suppose the main reason you obey your leader's laws is that you are afraid he will catch and punish you if you don't obey. What might you do if the leader is not around? Why?

4. Why didn't these people help make the laws they were to follow?

5. Do you think you would like living in a place where one person did all of the ruling? Why?

Who Could Rule When the Leader is Gone?

Months passed as the little ship sailed over the rough ocean. The settlers were tired and some of them were sick. They wanted to get to the new land very much. Old Ugo said it was not much further.

In their third month at sea a terrible thing happened. A huge storm came up. The ship tossed and rocked. Waves broke over the deck. Sailors rushed back and forth, working to keep the ship afloat. Old Ugo stood on the deck shouting orders. Then, suddenly, a huge wave broke over the ship. When the deck cleared Old Ugo was gone!

Each person looked at the empty deck in terror. They felt that all was lost. Old Ugo had been the only ruler on the ship. He had told the people how to sail. He had told them where to go. He had told them what was right and what was wrong. He had given all of the orders. Now, who could run the ship safely through this dangerous storm?

WHAT DO YOU THINK?

1. Why were the people afraid once Old Ugo was gone?

2. Suppose one person in your country is believed to be much wiser than you and all of the other people. Should he be allowed to make all of the laws and to say how everything should be run? Why?

Would You Like to be Ruled by a Strong, Brave Man?

The ship was out of control. People ran in all directions, not knowing what to do. Fights broke out. The people panicked.

"Grab that rope!" shouted one.

"No, you grab it!" said another.

"You've got my foot!" screamed a third.

"Steer the boat!"

"Lift the sail!"

"Drop the sail!"

"We'll all be killed!"

"Help! Someone do something!"

Two strong hands grabbed the ship's wheel. Spudnut held the ship steady on her course. He was the strongest of the ship's passengers. He was not very smart, but he had acted quickly and had saved the ship.

"God bless you, Spudnut!" shouted the grateful settlers.

"A man of action!"

"He saved our lives!"

"Our new leader!" they all shouted.

When the storm finally died down the grateful people decided to hold a party for the man who had saved them. He was their hero. They gave him Old Ugo's pants and his pipe and told him that he was now their leader. They felt that anyone so strong, so brave, who could act so quickly in an emergency, could not help but be a wise leader. And, in fact, Spudnut did look wise wearing Old Ugo's pants and with Old Ugo's pipe in his mouth.

The first thing Spudnut did was to tell everyone to get back to their places on the ship. He told them to do the same things they had done when Old Ugo was alive. The ship sailed smoothly on, but one thing was wrong. Spudnut did not know where he was going!

Spudnut had seen Old Ugo run the ship, but he had never been told how to find his way across the ocean. He had not been told how to find the land given to Old Ugo by the king.

The ship sailed for days and days. The people were tired. They had expected to find land earlier than this. Some of them began to grumble. They remembered that Old Ugo had said they were close to

land. Now they had sailed for days and no land was in sight. Some began to doubt if Spudnut was as wise as Old Ugo. Some began to doubt if Old Ugo had been as wise as they had thought.

Spudnut heard the grumbling and he made a law. "No grumbling on this ship," he said. "I'm the leader now and I know just where we are going! You must have faith in me!"

Just then a shout came from the crow's nest. "Land, ho!"

"See there!" said Spudnut. "What did I tell you? There's our land!"

The settlers rushed to the side of the ship. They saw a dark shape on the sea far away. As the ship drew nearer their excitement grew. They danced and sang. "Our new home! Our land! Hurray for Spudnut!"

"Look, there's snow on the mountains!" cried one.

"What a beautiful shape!" cried another.

"Oh, no!" cried the sailor in the crow's nest. "It's a rock!"

"A what?" cried the people below.

"It has rocks," said Spudnut firmly.

But as the ship drew closer the shape became clear for all to see. The new land their leader had brought them to was none other than a very large rock right in the middle of the ocean.

"It's a good rock," said Spudnut. "Let's land and take a close look at it. I think you'll find that it is one of the best rocks in this ocean."

A sad group of people landed on the large rock and began to explore it. They began to whisper quietly.

"How can we plant things on it?"

"There's a bit of dirt here in this crack," said Spudnut.

"What can we use to build houses?"

"Caves are very nice and stone houses are very strong," said Spudnut.

"Grumble, grumble," said the people.

"No grumbling!" shouted Spudnut. "It's against the law!"

"Come here, Spudnut!" cried a group of men. "Come up here,

quickly! Look at this cliff!"

"See, there at the bottom," they said as Spudnut came near. "Lean over here and see how deep the ocean is," they said as they took hold of Spudnut's arms and Old Ugo's pants. "Look closer!" they said as they sent their leader sailing off the cliff into the ocean below. "See if you can find Old Ugo down there," they said, "and ask him where our land is!"

WHAT DO YOU THINK?

1. Why didn't the people question Spudnut?

2. Should you have a chance to help choose leaders for your country? Why?

3. Suppose you and others do not like the leader you have chosen. Do you agree with the way these people got rid of the leader they didn't like? What is a good way to change leaders?

Would You Like to be Ruled by a Small Group of Men?

The ship sailed slowly away from Spudnut's rock. Some of the people felt a bit sorry for him. He had been so brave and so strong. Some of the settlers felt they had acted out of anger and had not been fair to Spudnut. After all, they thought, can't a leader be allowed to make some mistakes?

They now had the problem of finding a new leader. They decided that the one difference between Old Ugo and Spudnut was that Old Ugo had been old and Spudnut had been young. Several of the older men stepped up. "We're older, so we know more than young people," they said. "I was a friend of Old Ugo's," said one. "So was I," said another.

"We need more than one leader," they said. "We have decided that we older men will rule. We will decide together how to run things and whatever most of us want will be the law. All you have to do is to be responsible and obey us." And so it was.

The older men sailed toward the setting sun and soon they sighted land. This time it was the new continent, but they did not know whether or not they were in the right placé. They sailed along the coast until they found what looked like a good place to begin a colony. It was a beautiful spot with plenty of land for everyone. There were good meadows for farming, trees for building, and a clear, cool river for fresh water. The woods were filled with animals and the hunting was good.

No sooner had the settlers landed, however, than their troubles began. The leaders began to divide up the best land among themselves and their friends. Many of the younger settlers found they were being

given small pieces of land far from the main settlements in the colony. Some of them were given hilly or rocky land. They began to complain.

"Stop grumbling," said the leaders. "We are your leaders. What we say is law. You don't have the right to say how we should run this colony. Your job is to follow our orders and obey our laws. If you don't, you will be punished!"

Many of the settlers did not like what their leaders said. Things had been bad when they had had just one leader. Now they had a whole group of leaders who did things they didn't think were fair. They were angry at not being allowed to say what they thought. Many people complained quietly to each other. Some even said they should get rid of their leaders and not have any at all.

A year passed. The older men ruled as Old Ugo had ruled. They made the laws, enforced the laws, settled arguments, and punished people who broke their laws.

There were three small villages in the colony. The settlers had all built their own houses, farmed their lands, and lived together in peace. But, not all of them were happy with their leader's ways. Some were especially unhappy.

Each month the leaders collected tax money from the settlers and asked them to do other things. The leaders used the taxes to pay for work they were doing for the colony. At the end of the first year the leaders decided that everyone in the colony should give extra tax money to build a park and a statue of Old Ugo at the spot where the ship had landed. The settlers began to complain out loud. Many felt they had paid enough taxes already. Some wanted to help build the park instead of paying taxes to have it built by someone else. The settlers had liked Old Ugo and thought it would be nice to have a statue of him, but they had different ideas about where the park should be built.

They began to tell their ideas to the leaders. Some wanted the park near the center of the largest village. Some wanted it at the spot where the ship had landed. Some only wanted to give one week of work.

"We have decided!" shouted the leaders. "The statue will be built where the ship landed. You must build the statue where we tell you to build it. You must all give two weeks' work. What makes you think you should have any right to say how this colony should be run?"

WHAT DO YOU THINK?

1. What did the colonists disagree about? Why did they disagree?

2. Why didn't they like having the older men make all of their rules?

3. Do you think you would obey laws better, even if they were not perfect, if you had a chance to say what laws you thought you needed and if you could take part in making your laws? Why?

4. Should you have some way to change your laws if you don't like them? Why? How?

Do You Need to Have Any Leaders?

The leaders' attitudes made most of the settlers very angry. They didn't like not having the right to say what they thought. They didn't like not having a chance to help decide how their colony was going to be run. They had done what they had been told for over a year. Many of the leaders' orders had been good ones and settlers didn't mind following them. But some of the orders had been so bad that it was just too much to take.

The problem was knowing what to do about the leaders. The settlers had been taught all their lives that their responsibility was to do everything their leaders told them to do and that they were not to ask questions. Most of them had done just that. That is, except for the time they had thrown Spudnut into the deep blue sea.

Some of the settlers met together to talk about what they could do. At first, they only argued about the park and the statue of Old Ugo. But, the more they talked, the more they began to complain about other things their leaders had done that they hadn't liked. The more they talked, the more they realized that most of them were unhappy with their leaders. Some began to say they should get rid of their leaders and find new ones who would be more fair and who would do what they wanted them to do. Some said they should have no leaders at all.

"We're much stronger than those old men," said Mellonhead. "We can overthrow them easily!"

"Let's take them up on a cliff and throw them in the water like we did to Spudnut!" shouted another.

"Then we can choose a new leader!"

"I'm not going to obey them anymore!" shouted another. "I want someone else to lead this colony."

"Let's tell them we don't want them to rule anymore," said Beasel. "We can't just throw our leaders off a cliff every time we decide we don't like what they are doing."

"How can we change leaders when we don't like them?" asked Mome. "Most of them won't agree to stop ruling when a few of us ask them to. What can we do?"

"Let's just get rid of them and not have any leaders at all," said Bark Barracuda. "It's too dangerous letting anyone be a leader. Once they become leaders they do what they please and you can't get rid of them. Let's not have any leaders. Then we can all go back to our villages and do as we please. When we have to do something together, we can meet in our villages and plan together. That way we can all have a chance to help decide how things will be done in our villages."

WHAT DO YOU THINK?

1. Do you think it is necessary to have leaders and laws? Why?

2. What could happen if everyone did as he pleased and there were no leaders or laws?

3. What could happen if people in each village decided what they wanted to do without planning with people in other villages? Why?

How Well Could You Work Together Without Leaders?

A group of the braver settlers decided to talk to their leaders. "We're tired of the way you have been ruling and we want to run things by ourselves. We have decided we don't want leaders anymore. The settlers in each village are going to run things the way they want to. We are much stronger than you. We don't want to have to throw you off a cliff as we did to Spudnut, so if you will agree to give up without a fight we will let you live peacefully with us."

The leaders were very angry. But, they were also afraid. Some of them couldn't swim and they knew their lives were in danger. After talking together for a few minutes, they agreed to let the settlers do things the way they wished.

The settlers were overjoyed at winning so easily. They sang, danced, and shouted. Guns were fired and flags were waved. Parties were held all day and night for a week. Many of the settlers said that now that they could run their own villages, their troubles were over. Finally, after becoming a bit tired of parties, the people went back to their homes.

The settlers in each village soon found that it was not always easy to do things without leaders. When they wanted to make an agreement with settlers in one of the other villages, it was much easier to send one or two men to talk with them than for all of them to leave their work. Besides, how could all of the people of two villages talking together ever reach an agreement? Too many people talked at once and had too many different ideas. When they wanted to collect tax money to pay for things they all needed, who was to collect the money? When they decided they needed a road connecting their villages they really ran into trouble.

HIGH SCHOOL

Course and Grade Level: Ninth to Twelfth Grades
Social Studies, American History,
Law-Related Education

Topic: BILL OF RIGHTS

Topical Question: What is the importance of the Bill of Rights in our everyday lives?

Time Required: Three forty-five minute class periods

Resources:

Materials: This lesson plan is adapted from Citizens on Assignment, a Newspaper in Education Curriculum on Citizenship, by Julie C. Morse and Carolyn Pereira, Chicago Sun-Times/Constitutional Rights Foundation, 1980, Lesson 9, pp. 26-29.

Copy of the Bill of Rights. (Copy included)

Newspapers.

Bill of Rights in Action worksheet and answer sheet. (Copy included)

Poster paper, glue and scissors.

Content: By using a worksheet and a local newspaper, students will demonstrate an understanding of the Bill of Rights by categorizing various articles according to which right is described.

Objectives:
1. To familiarize students with the Bill of Rights.
2. To alert students to the importance of these rights in everyday lives.
3. To familiarize students with their local newspaper and its contents and to have students be able to categorize newspaper articles as they relate to the Bill of Rights.

Procedure:
1. Have students brainstorm what they think the ten rights guaranteed under the Bill of Rights are. List their ideas on the blackboard. Afterwards, hand out a copy of the Bill of Rights. Compare students' lists with the actual rights included in the Bill of Rights. The teacher will give a summary and example of each of the Bill of Rights to clarify students' understanding before proceeding with the lesson.
2. Have students think of one real-life experience in which one or more of these rights were exercised or challenged. Write several students' answers on the board.

3. Explain that these examples listed are only a few of the possible examples involving some aspect of the Bill of Rights.
4. Have students complete the "Bill of Rights in Action" worksheet.

   a. Students read each headline and/or article to determine which area of the Bill of Rights is described.
   b. Students write what they believe to be the correct right directly above the appropriate article or headline.
   c. Discuss each example and any discrepancies that may arise.

5. Have students look for examples of each of the ten rights in the Bill of Rights through their own local newspapers.

   a. Students collect such examples for a week.
   b. If desired, class can be divided into ten teams, each of which would do an in-depth study of one of the rights.
   c. At the end of the week, articles would be arranged on a bulletin board display under the appropriate rights headings to further promote citizenship awareness.
   d. Have class members examine and discuss these articles and see if any discrepancies exist.

6. An additional exercise would be to ask students the following question: "If you were forced to give up five of these rights, which do you feel would be the most important to keep?"

   a. Break the class into small groups in which a decision must be made as to which five rights to keep. Use discussion/debate approach, and then take a democratic vote.
   b. When each group has reached their decision, have two groups join together and repeat the process. Continue in this manner until all groups have come together as one; then have a total class discussion/debate and finally vote.
   c. Following the vote, ask if everyone was content with the final results of the vote. Ask any who were not to explain their feelings, stating, however, that the final vote still stands. In this way, students will experience first-hand the workings of the democratic process and will better understand the freedoms guaranteed to us and the reasoning behind them.

Evaluation: Students will demonstrate their knowledge of the Bill of Rights through completion of a worksheet and by finding examples in their local newspapers.

Teacher Comments: Citizens on Assignment is an excellent resource containing 20 lesson plans, as well as a section entitled, "What Can You Do About the News" and a final section called, "See It in Print." Cost is $8.00 per copy, payable to ANPA Foundation. Address: Ruth Finn, ANPA Foundation, The Newspaper Center, Box 17407, Dulles International Airport, Washington, D.C., 20041.

As a general rule, using newspapers in the classroom is an excellent resource for current events, both nationally and locally, pertaining to law-related education. For information on participating in newspaper workshops, contact the educational coordinator of your local newspaper. Cost is minimal and results are worthwhile.

An excellent discussion of the individual rights (1st, 5th and 14th Amendments) is included in Street Law, Second Edition, Ch. 6, Student Edition, pp. 270-324, Teacher's Manual, pp. 229-279.

SECTION A:

THE EXPANDED BILL OF RIGHTS

AMENDMENT I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

AMENDMENT II

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

AMENDMENT III

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

AMENDMENT IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

AMENDMENT V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty,

or property, without due process of law; nor shall private property be taken for public use, without just compensation.

AMENDMENT VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation: to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

AMENDMENT VII

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any Court of the United States, than according to the rules of the common law.

AMENDMENT VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

AMENDMENT IX

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

AMENDMENT X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

AMENDMENT XIII

SECTION 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

SECTION 2. Congress shall have power to enforce this article by appropriate legislation.

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Sobul, DeAnne, The Bill of Rights, A Handbook, New York: Benziger Brothers, 1969, pp. 207-210.

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AMENDMENT XIV

SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

SECTION 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

SECTION 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

SECTION 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

SECTION 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

AMENDMENT XV

SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

SECTION 2. The Congress shall have power to enforce this article by appropriate legislation.

AMENDMENT XIX

SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.

SECTION 2. Congress shall have power to enforce this article by appropriate legislation.

AMENDMENT XXIV

SECTION 1. The right of citizens of the United States to vote in any primary or other election for President, or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax or other tax.

SECTION 2. The Congress shall have power to enforce this article by appropriate legislation.

THE BILL OF RIGHTS IN ACTION

Read the newspaper items below and determine which are representative of each of the ten rights guaranteed under the Bill of Rights. Write the approprate right in the space above each article.

By Gil Jimenez and Lynn Sweet

A suspected robber, a guard and a third person were wounded Tuesday during a holdup attempt at a check-cashing service in the Veterans Administration Lakeside Hospital, 333 E. Huron.

Police said the suspect and a bystander appeared to have suffered serious gunshot wounds. Their names weren't immediately disclosed.

Paul Mousas, a guard for the Thillens Inc., a check-cashing service, suffered a superficial graze wound during an exchange of shots, according to Mel Thillens, owner of the service.

In testimony Monday and Tuesday, Groff said the IRS investigation showed Scott never earned enough money to pay $48,900 in political expenses out of his own pocket.

He testified that Scott and his lawyers tried to prove the extra money came from unrestricted gifts from supporters.

Jurors' opinions mixed on film coverage of trials

TRENTON, N.J. (UPI)—Many jurors who served in a series of trials at which news photographers were permitted to take pictures say they favor camera coverage at important trials.

They also believe camera coverage would encourage more people to serve on juries and show the public how the legal system works.

"Photo coverage should be allowed in every case. It's a public event," said Bergen County, N.J., juror Herbert Dunning.

United Press International interviewed 15 of 60 jurors who served in five New Jersey trials at which cameras were permitted on an experimental basis. Of those interviewed, 13 said they were not distracted by the cameras. Eleven said photographers in courtrooms should become a permanent fixture but all but one of them wanted to limit it to big trials with widespread community interest.

Cameras have been banned from New Jersey courtrooms after the 1936 Lindbergh kidnap-murder trial when authorities said they created a circus atmosphere. In the experiment undertaken in New Jersey in May, the trials, with one exception—an armed robbery case—involved murder.

For the jurors' protection, the photographers were barred from taking pictures showing the jurors' faces.

Although the majority of those interviewed favored camera coverage of at least some major trials, others opposed the idea.

From Sun-Times Wires

SANTA FE, N.M.—Prosecutors said Tuesday they will seek the stiffest possible penalties for up to 100 New Mexico State Penitentiary inmates believed responsible for the weekend riot, the most savage in modern history in this country.

Fires still burning in the prison gymnasium Tuesday blocked searchers hunting for more bodies in the ravaged penitentiary where at least 35 inmates died, many the victims of inhuman atrocities.

Nazis schedule protest march

RALEIGH, N.C. (AP)—Greensboro, scene of a number of marches in the past several months, is getting another one—a Nazi leader says he plans to lead a "anti-communist demonstration."

UC professor to speak

George S. Tolley, professor of economics at the University of Chicago, will discuss "Research and Development Policy" at 12:30 p.m. Feb. 18 in the Crawford Auditorium of the Illinois Institute of Technology, 3200 S. State. The talk is part of the institute's free public lecture series on "Technology, Innovation and World Leadership."

Fired bus driver sues TV station for airing film of her going in bar

MILWAUKEE (UPI)—A bus driver who said she was fired because a local television station aired film showing her entering a bar during working hours has sued the station for $1.25 million.

Alma D. Davis, 27, said the film was made while she was working for Golden Rule Handicabs. Davis said she was filmed by WISN-TV last March 7 entering a tavern to use the restroom.

BOSTON—Students prayed out loud in some Massachusetts schools for the first time in eight years Tuesday, but the state Civil Liberties Union vowed to take the issue back to the courts.

A new state law that took effect Tuesday allows teachers to ask for student volunteers to lead the class in prayer. Youngstars who don't want to pray are allowed to leave the classroom.

Pace did not testify in his own behalf or present any witnesses or evidence.

Reprinted from yesterday's late editions

NOTE: All the above examples were taken from just one issue of The Chicago Sun-Times, February 4, 1980.

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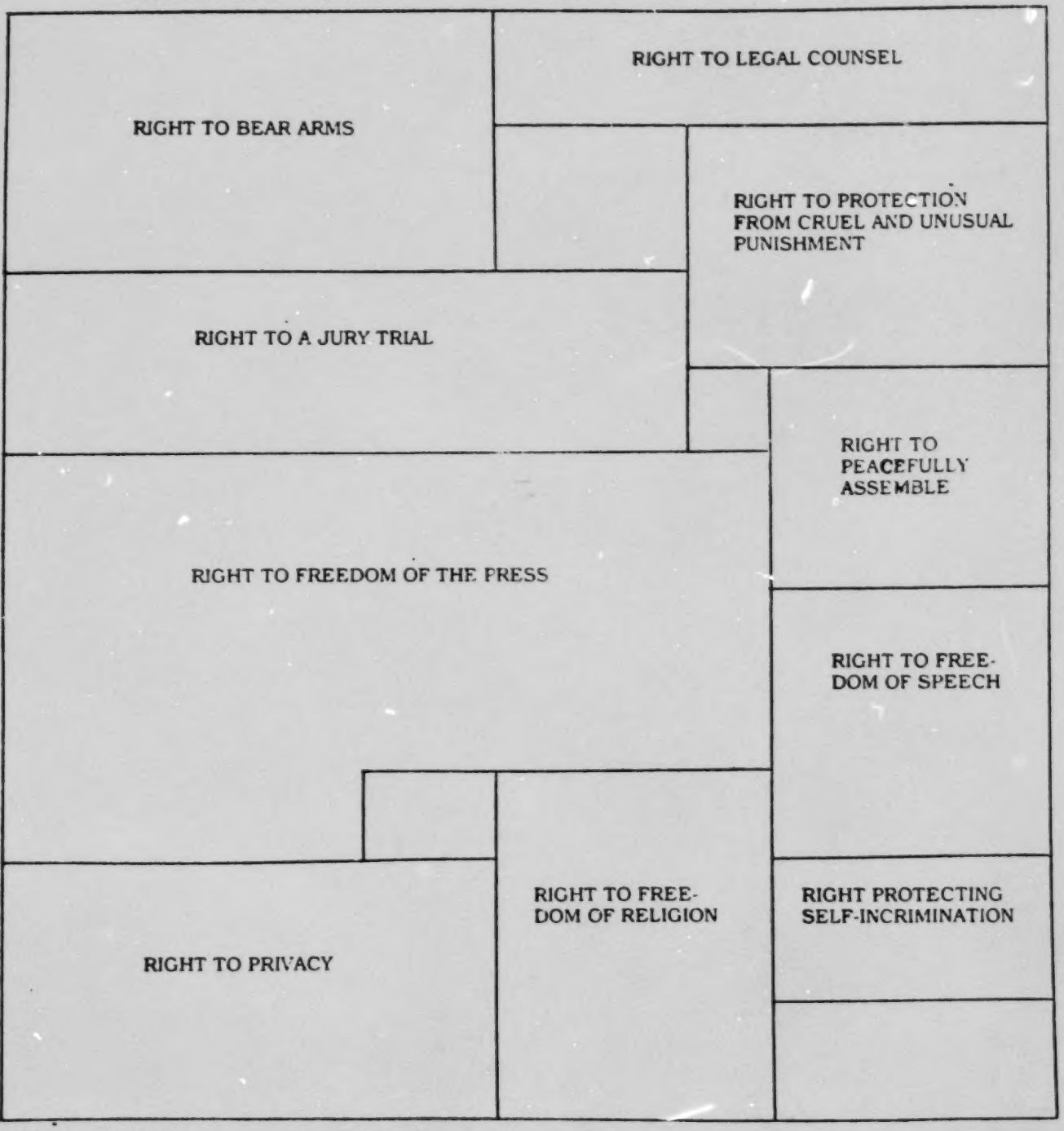
THE BILL OF RIGHTS IN ACTION
(ANSWER SHEET)

(Note: Students might find more than one right represented in an article, but must at least find the ten below.


RIGHT TO BEAR ARMS
RIGHT TO LEGAL COUNSEL
RIGHT TO PROTECTION FROM CRUEL AND UNUSUAL PUNISHMENT
RIGHT TO A JURY TRIAL
RIGHT TO PEACEFULLY ASSEMBLE
RIGHT TO FREEDOM OF THE PRESS
RIGHT TO FREEDOM OF SPEECH
RIGHT TO FREEDOM OF RELIGION
RIGHT PROTECTING SELF-INCRIMINATION
RIGHT TO PRIVACY

Morse, Julie C., and Carolyn Pereira, Citizens on Assignment, A Newspaper in Education Curriculum on Citizenship, Chicago Sun-Times/ Constitutional Rights Foundation, 1980, Lesson 9, pp. 28-29.

Course and Grade Level: Ninth to Twelfth Grades
Government, Sociology, Law, American Problems

Topic: FREEDOM OF RELIGION

Topical Question: How do the establishment clause and the free exercise clause of the First Amendment limit each other in the process of protecting freedom of religion?

Time Required: Three fifty-minute class periods

Resources:

Materials: Arbetman, Lee P., Edward T. McMahon and Edward L. O'Brien, Street Law, Second Edition, St. Paul: West Publishing Company, 1980, p. 290 (Student Edition); pp. 243-244 (Teacher Manual).

On Diversity, A Casebook of the Law in a Free Society Project, Santa Monica, California, 1976, pp. 100-103 (Epperson v. Arkansas). (Copy included)

On Freedom, A Casebook of the Law in A Free Society Project, Santa Monica, California, 1975, p. 166 (Abington School District v. Schempp); pp. 167-168 (Wisconsin v. Yoder); p.254 (Abington School District v. Schempp); pp. 255-256 (Wisconsin v. Yoder). (Copy included)

Content: Through an analysis and comparison of three Supreme Court cases dealing with freedom of religion, students will explore the interrelationship and limitations of the right to freely practice one's religion and right to be free from a state-imposed religion.

Objectives:
1. Students will understand that the First Amendment protection of freedom of religion contains two distinct aspects: free exercise and anti-establishment.
2. Students will understand the nature of these rights.
3. Students will understand that each right necessarily limits the other.
4. Students will be able to predict the conflict between these rights in novel situations.

Procedure: First Day

1. (See "Grabber" section in "Teaching Strategies" section of this handbook.) Tell students that several groups of students are requesting the school administration to recognize their organizations as official school clubs. This would entitle each group to a faculty advisor, some

operating expenses, use of school communications equipment (mimeo, photocopier, etc.), a meeting place and other benefits for being an official school-sponsored activity. These groups include:

a. A Christian Youth Group which hopes to hold dances and other social activities where no student who uses drugs, alcohol or tobacco may attend.
b. A group interested in the study of the Old and New Testament of the Bible.
c. An Atheist Youth Club which hopes to convince other students that organized religion is absurd since God does not exist. They hope to use club-sponsored lectures and to distribute literature to other students.
d. A Transcendental Meditation Club which will offer relaxation exercises and spiritual awareness classes.

Divide the class into five groups and assign one application to each group. Ask each group to consider the application and prepare to offer the school administration its recommendations for or against recognition. Students should also have justifications for their positions. Have students share their recommendations and reasons with the rest of the class. During the discussion, highlight the issues related to freedom of religion. Particularly, be sensitive to issues where a group's free exercise of religion through a school-sponsored activity might excessively entangle the state in religious practices.

2. Discuss with the students the establishment and free exercise clauses of the First Amendment. As a group, do Problem 12 on Page 290 of the Student Edition of Street Law, 2nd Edition.
3. Assign the three cases included in the lesson plan (including their holdings) as homework.

Second Day

1. Using the case study method described in the Teaching Strategies section of this handbook, discuss the facts, issues/arguments, and the reasoning of the Court's decisions. Begin with Wisconsin v. Yoder as an example of the free exercise clause in action. Then discuss Epperson v. Arkansas as an establishment clause issue. (There are not separate facts and holdings in the Epperson material. The extract from the Court's opinion contains both.) Finally, discuss the Abington School District v. Schempp case. It raises both free exercise and establishment issues.

The discussion should reinforce the concept that allowing the totally free and unrestricted exercise of religion can amount to the establishment of a religion and how the opposite, i.e., the avoidance of becoming entangled in a religion, can limit the free exercise of religion.

Evaluation: Students will be evaluated on their ability to recognize issues of free exercise and church-state separation and balance the two by having them write a hypothetical opinion for a court given these facts:

A local school district has decided to offer a unit on "Human Sexuality and Reproduction" as part of a required 11th grade Health curriculum. All students will be required to participate in the three-week unit to pass the course. A group of parents objects on the grounds that their freedom of religion is violated by forcing their children to meet the requirement. They argue that their children will be exposed to values related to human sexuality that conflict with their religious values. The parents sue in your federal court and you must decide the case and support your decision with an opinion.

Comment: An additional case you may wish to use is the Logan, LDS Seminary case. This is another excellent example of a case involving the conflict between the two aspects of freedom of religion.

Lanner v. Wimmer, 463 F. Supp. 867, 881 (D. Utah 1978).

Wisconsin v. Yoder (1972)

Wisconsin state law requires all persons having control of a child between the ages of 7 and 16 to make the child attend school regularly.

The Amish are a religious group who have kept a separate and distinct identity from the mass of American society for about 250 years. As a part of their religion, the Amish retain their 18th century way of dressing and do not own automobiles, radios, telephones, etc.; they speak the German dialect of their ancestors and keep separate from society by forming self-contained communities with their own rules for behavior, education, social welfare, etc.

They obey that part of the Bible which says, "Be not conformed to this world...;" their social values are quite different from those of the larger society. Seeking wealth beyond what is necessary for the family and community is sinful. They discourage competition and the seeking of personal status. They allow for the need to know how to "read, write, and cipher," but the pursuit of higher worldly knowledge is seen as encouraging personal pride. Higher knowledge may also lead to disaffection with Amish society and alienation from God.

The Amish are in many respects model citizens. They pay their taxes and debts, take care of their own medical and health problems, and are seldom involved in any kinds of unlawful behavior.

In earlier times, when the law required education for all until the eighth grade, the Amish sent their children to small country schools, usually filled with Amish children, taught by an Amish teacher, and run by a board of Amish citizens. In recent years, the schools have been consolidated, and the Amish children have had to attend the larger schools in town, where they mingle with non-Amish children and are taught by non-Amish teachers.

The Amish have attempted to set up their own parochial schools; however, to comply with state laws these schools must maintain a general standard curriculum, use certificated teachers, and meet other requirements which are objected to by the Amish.

Recently the Amish have been concerned about the increasing numbers of young people who are leaving the Amish communities. During childhood and early adolescence, the youth are trained to become participating adults in the Amish community. But for a few years, up to the age of 19 (when they are baptized and accepted as full members), they are expected to consider carefully whether they will turn their backs upon the worldly society and accept the burdens of Amish life. This decision may, in part, be made in some degree of ignorance if the youth has not attended high school where he may

learn of other ways of life from that of the Amish. In addition, those young people who have chosen to leave the Amish community often enter regular society with the disadvantage of not having gone to high school.

Also, many school districts which have large members of Amish lose considerable amounts of money because of the lack of attendance by the Amish youth. State aid to schools is based upon the number of students who attend the school regularly.

As a result, there is often a strong feeling in counties where there are large numbers of Amish that the Amish youth should be forced to attend school.

In the fall of 1968, several Amish fathers, including Yoder, were arrested and charged with disobeying the Wisconsin law which requires parents to send their children under the age of 16 to school.

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1. What is the interest of the State in requiring all children to attend schools and to experience a standard curriculum?

2. What reasons do the Amish have for wanting their children to attend their own school?

3. Is the State's requirement that Amish children attend schools with a required curriculum an unfair limitation of the Amish's freedom of religion?

4. Who, if anyone, is harmed by the Amish practice of refusing to allow their children to attend high school? Non-Amish society? The Amish parents? The Amish children?

5. Which of the following practices should be tolerated under the constitutional guarantee of freedom of religion? Why?

   a. the use of wine in religious ceremonies
   b. the use of mild narcotics in religious ceremonies
   c. ceremonial use of poisonous snakes
   d. ceremonial animal sacrifice

From On Freedom, A Casebook: Selected Readings for Teachers. Reprinted with permission. Copyright 1975, 1976 by Law in a Free Society Project, pp. 167-168 (1975 Edition).

Wisconsin v. Yoder (1972)

After being convicted in the trial court, the Amish parents appealed to the State Supreme Court which reversed the convictions.

The United States Supreme Court upheld the reversal. In an opinion by Chief Justice BURGER, the Court said:

. . .

"There is no doubt as to the power of a State, having a high responsibility for education of its citizens, to impose reasonable regulations for the control and duration of basic education. Providing public schools ranks at the very apex of the function of a State. Yet even this paramount responsibility [has been] made to yield to the right of parents to provide an equivalent education in a privately operated system....

"It follows that in order for Wisconsin to compel school attendance beyond the eighth grade against a claim that such attendance interferes with the practice of a legitimate religious belief, it must appear either that the State does not deny the free exercise of religious belief by its requirement, or that there is a state interest of sufficient magnitude to override the interest claiming protection under the Free Exercise Clause....

. . .

"...In evaluating those claims we must be careful to determine whether the Amish religious faith and their mode of life are, as they claim, inseparable and interdependent. A way of life, however virtuous and admirable, may not be interposed as a barrier to reasonable state regulation of education if it is based on purely secular considerations; to have the protection of the Religion Clauses, the claims must be rooted in religious belief.... [I]f the Amish asserted their claims because of their subjective evaluation and rejection of the contemporary secular values accepted by the majority, much as Thoreau rejected the social values of his time and isolated himself at Walden Pond, their claim would not rest on a religious basis. Thoreau's choice was philosophical and personal rather than religious, and such belief does not rise to the demands of the Religion Clauses.

. . .

"The conclusion is inescapable that secondary schooling, by exposing Amish children to worldly influences in terms of attitudes, goals, and values contrary to beliefs, and by substantially interfering with the religious development of the Amish child and his integration into the way of life of the Amish faith community at the crucial adolescent stage of development, contravenes the basic religious tenets and practice of the Amish faith, both as to the parent and the child.

. . .

"For the reasons stated we hold, with the Supreme Court of Wisconsin, that the First and Fourteenth Amendments prevent the State from compelling respondents to cause their children to attend formal high school to age 16....

. . .

From On Freedom, A Casebook of the Law in a Free Society Project, Santa Monica, California, 1975, pp. 255-256. Opinion as edited in On Freedom, Law in a Free Society Project, 1976.

Abington School District v. Schempp (1963)

A Pennsylvania state law, passed in 1958, required that "At least ten verses from the Holy Bible shall be read, without comment, at the opening of each public school on each school day." An amendment to this law was passed in 1959 stating that "any child shall be excused from such Bible reading, upon the written request of his parent or guardian." Abington Senior High School conformed to the state law in the following manner:

On each school day between 8:15 and 8:30 the students, while in homerooms or advisory sections, would listen to a broadcast over the intercommunication system. In the course of this broadcast, ten Bible verses were read. This was followed by a recitation of the Lord's Prayer, also over the intercom, and the students in the classrooms were asked to stand and repeat the prayer in unison. This exercise was followed by the flag salute and routine school announcements.

The Bible selections were read by students enrolled in a radio and television class. They could choose any verses they wished and use any version of the Bible, although the only copies furnished by the school were the King James version. During the period of time that the readings had been conducted at Abington, the *King James*, the *Douay* and the *Revised Standard* versions of the Bible and the Jewish Holy Scriptures had been used. There were no introductory statements made, no questions asked, no comments or explanations made, and no interpretations given before, during or after the readings.

Students and parents were advised that the student could choose to leave the room during the broadcast, or, should he or she remain, elect not to participate in the exercises.

The members of the Schempp family were of the Unitarian faith, and the children attended Abington Senior High School. The Schempps sued to have the statute declared unconstitutional on the grounds that it put the state in the position of supporting religion, in general, and also particular denominations.

---

1. What might be some effects upon the student's freedom of belief of being exposed to state-mandated religious exercises?

2. Is the method by which students may elect not to participate satisfactory? Are many likely to take advantage of it, even if they are inclined to do so?

3. Should the schools not teach the Bible as literature or religious history because of the tendency of such studies to support religious values?

4. To what degree might a rule prohibiting all religious activities in elementary and secondary schools deny to those who wish to engage in such activities their freedom of religion?

From On Freedom, A Casebook: Selected Readings for Teachers. Reprinted with permission. Copyright 1975, 1976 by Law in a Free Society Project, p. 166 (1975 Edition)

Abington School District v. Schempp (1963)

In affirming a lower court judgment that the Pennsylvania statute violates the First Amendment, the United States Supreme Court, in an opinion by Mr. Justice CLARK, said:

. . .

"It is true that religion has been closely identified with our history and government.... The fact that the Founding Fathers believed devotedly that there was a God and that the unalienable rights of man were rooted in Him is clearly evidenced in their writings, from the Mayflower Compact to the Constitution itself. This background is evidenced today in our public life.... Indeed, only last year an official survey of the country indicated that 64% of our people have church membership,...while less than 3% profess no religion whatever. It can be truly said, therefore, that today, as in the beginning, our national life reflects a religious people....

"This is not to say, however, that religion has been so identified with our history and government that religious freedom is not likewise as strongly imbedded in our public and private life....

. . .

"[T]he teachings of history [show] that powerful sects or groups might bring about a fusion of governmental and religious functions or a concert or dependency of one upon the other to the end that official support of the State or Federal Government would be placed behind the tenets of one or of all orthodoxies. This the Establishment Clause prohibits.... The test [of a law's compliance with the First Amendment's commands] may be stated as follows: what are the purpose and the primary effect of the enactment? If either is the advancement or inhibition of religion then the enactment exceeds the scope of legislative power as circumscribed by the Constitution. That is to say that to withstand the strictures of the Establishment Clause there must be a secular legislative purpose and a primary effect that neither advances nor inhibits religion....

. . .

"The conclusion follows that in both cases the laws require religious exercises and such exercises are being conducted in direct violation of the rights of [certain students]. Nor are these required exercises mitigated by the fact that individual students may absent themselves upon parental request, for that fact furnishes no defense to a claim of unconstitutionality under the Establishment Clause. Further, it is no defense to urge that the religious practices here may be relatively minor encroachments on the First Amendment. The breach of neutrality that is today a trickling stream may all too soon become a raging torrent...."

. . .

From On Freedom, A Casebook: Selected Readings for Teachers. Reprinted with permission, Copyright 1975, 1976 by Law in a Free Society Project, p. 254 (1975 Edition).

Epperson v. Arkansas (1968)*

Mr. Justice FORTAS delivered the opinion of the Court.

"This appeal challenges the constiutionality of the 'anti-evolution' statute which the State of Arkansas adopted in 1928 to prohibit the teaching in its public schools and universities of the theory that man evolved from other species of life. The statute was a product of the upsurge of 'fundamentalist' religious fervor of the twenties. The Arkansas statute was an adaption of the famous Tennessee 'monkey law' which that State adopted in 1925. The constitutionality of the Tennessee law was upheld by the Tennessee Supreme Court in the celebrated *Scopes case* in 1927.

"The Arkansas law makes it unlawful for a teacher in any state-supported school or university 'to teach the theory or doctrine that mankind ascended or descended from a lower order of animals,' or 'to adopt or use in any such institution a textbook that teaches' this theory. Violation is a misdemeanor and subjects the violator to dismissal from his position.

"The present case concerns the teaching of biology in a high school in Little Rock. According to the testimony, until the events here in litigation, the official textbook furnished for the high school biology course did not have a section on the Darwinian Theory. Then, for the academic year 1965-66, the school administration, on recommendation of the teachers of biology in the school system, adopted and prescribed a textbook which contained a chapter setting forth 'the theory about the origin . . . of man from a lower form of animal.'

"Susan Epperson, a young woman who graduated from Arkansas' school system and then obtained her master's degree in zoology at the University of Illinois, was employed by the Little Rock school system in the fall of 1964 to teach 10th grade biology at Central High School. At the start of the next academic year, 1965, she was confronted by the new textbook (which one surmises from the record was not unwelcome to her). She faced at least a literal dilemma because she was supposed to use the new textbook for classroom instruction and presumably to teach the statutorily condemned chapter; but to do so would be a criminal offense and subject her to dismissal.

"She instituted the present action in the Chancery Court of the State, seeking a declaration that the Arkansas statute is void and enjoining the State and the defendant officials

the Little Rock school system from dismissing her for violation of the statute's provisions. H.H. Blanchard, a parent of children attending the public schools, intervened in support of the action.

". . . Arkansas' statute cannot stand. It is of no moment whether the law is deemed to prohibit mention of Darwin's theory, or to forbid any or all of the infinite varieties of communication embraced within the term 'teaching.' Under either interpretation, the law must be stricken because of its conflict with the constitutional prohibition of state laws respecting an establishment of religion or prohibiting the free exercise thereof. The overriding fact is that Arkansas' law selects from the body of knowledge a particular segment which it proscribes for the sole reason that it is deemed to conflict with a particular religious doctrine; that is, with a particular interpretation of the Book of Genesis by a particular religious group.

"The antecedents of today's decision are many and unmistakable. They are rooted in the foundation soil of our Nation. They are fundamental to freedom.

". . . Government in our democracy, state and national, must be neutral in matters of religious theory, doctrine, and practice. It may not be hostile to any religion or to the advocacy of no-religion and it may not aid, foster, or promote one religion or religious theory against another or even against the militant opposite. The First Amendment mandates governmental neutrality between religion and religion, and between religion and non-religion.

. . .

". . . Judicial interposition in the operation of the public school system of the Nation raises problems requiring care and restraint. Our courts, however, have not failed to apply the First Amendment's mandate in our educational system where essential to safeguard the fundamental values of freedom of speech and inquiry and of belief. By and large, public education in our Nation is committed to the control of state and local authorities. Courts do not and cannot intervene in the resolution of conflicts which arise in the daily operation of school systems and which do not directly and sharply implicate basic constitutional values . . .

. . .

". . . The State's undoubted right to prescribe the curriculum for its public schools does not carry with it the right to prohibit, on pain of criminal penalty, the teaching of a scientific theory or doctrine where that prohibition is based upon reasons that violate the First Amendment. It is much too late to argue that the State may impose upon the teachers in its schools any conditions that it chooses, however restrictive they may be of constitutional guarantees. . . .

. . .

". . . Arkansas' law cannot be defended as an act of religious neutrality. Arkansas did not seek to excise from the curricula of its schools and universities all discussion of the origin of man. The law's effort was confined to an attempt to blot out a particular theory because of its supposed conflict with the Biblical account, literally read. Plainly, the law is contrary to the mandate of the First, and in violation of the Fourteenth, Amendment to the Constitution.

"The judgment of the Supreme Court of Arkansas is reversed."

Mr. Justice BLACK, concurring.

. . .

". . . While I hesitate to enter into the consideration and decision of such sensitive state-federal relationships, I reluctantly acquiesce. But, agreeing to consider this as a genuine

case or controversy, I cannot agree to thrust the Federal Government' s long arm the least bit further into state school curriculums than decision of this particular case requires . . . .

. . .

"It is plain that a state law prohibiting all teaching of human development or biology is constitutionally quite different from a law that compels a teacher to teach as true only one theory of a given doctrine. It would be difficult to make a First Amendment case out of a state law eliminating the subject of higher mathematics, or astronomy, or biology from its curriculum. And, for all the Supreme Court of Arkansas has said, this particular Act may prohibit that and nothing else. This Court, however, treats the Arkansas Act as though it made it a misdemeanor to teach or to use a book that teaches that evolution is true. But it is not for this Court to arrogate to itself the power to determine the scope of Arkansas statutes. Since the highest court of Arkansas has deliberately refused to give its statute that meaning, we should not presume to do so.

"It seems to me that in this situation the statute is too vague for us to strike it down on any ground but that: vagueness. Under this statute as construed by the Arkansas Supreme Court, a teacher cannot know whether he is forbidden to mention Darwin's theory, at all or only free to discuss it as long as he refrains from contending that it is true . . . . Holding the statute too vague to enforce would not only follow long-standing constitutional precedents but it would avoid having this Court take unto itself the duty of a State's highest court to interpret and mark the boundaries of the State's laws. And, more important, it would not place this Court in the unenviable position of violating the principle of leaving the States absolutely free to choose their own curriculums for their own schools so long as their action does not palpably conflict with a clear constitutional command.

. . .

". . . It may be . . . that the people's motive was merely that it would be best to remove this controversial subject from its schools, there is no reason I can imagine why a State is without power to withdraw from its curriculum any subject deemed too emotional and controversial for its public schools. . . .

"A second question that arises. . . Since there is no indication that the literal Biblical doctrine of the origin of man is included in the curriculum of Arkansas schools, does not the removal of the subject of evolution leave the State in a neutral position toward these supposedly competing religious and anti-religious doctrines? Unless this Court is prepared simply to write off as pure nonsense the views of those who consider evolution an anti-religious doctrine, then this issue presents problems under the Establishment Clause far more troublesome than are discussed in the Court's opinion.

"I am also not ready to hold that a person hired to teach school-children takes with him into the classroom a constitutional right to teach sociological, economic, political, or religious subjects that the school's managers do not want discussed. . . ."

. . .

Mr. Justice STEWART, concurring in the result.

"The States are most assuredly free 'to choose their own curriculums for their own schools.' A State is entirely free, for example, to decide that the only foreign language to be taught in its public school system shall be Spanish. But would a State be constitutionally free to punish a teacher for letting his students know that other languages are also spoken in the world? I think not.

"It is one thing for a State to determine that 'the subject of higher mathematics, or astronomy, or biology' shall or shall not be

included in its public school curriculum. It is quite another thing for a State to make it a criminal offense for a public school teacher so much as to mention the very existence of an entire system of respected human thought. That kind of criminal law, I think, would clearly impinge upon the guarantees of free communication contained in the First Amendment, and made applicable to the States by the Fourteenth.

"The Arkansas Supreme Court has said that the statute before us may or may not be just such a law. The result, as Mr. Justice Black points out, is that 'a teacher cannot know whether he is forbidden to mention Darwin's theory at all.' Since I believe that no State could constitutionally forbid a teacher 'to mention Darwin's theory at all, ' and since Arkansas may, or may not, have done just that, I conclude that the statute before us is so vague as to be invalid under the Fourteenth Amendment."

1. What social or economic pressures might cause a state to mandate that the only foreign language to be taught in its schools will be Spanish?

2. To what extent do the following bring pressure for conformity or uniformity of standards for curricula in the schools?

   a. Parents
   b. Politicians
   c. Teacher organizations
   d. State textbook adoption committees
   e. Textbook publishers
   f. Special interest groups

From On Diversity, A Casebook: Selected Readings for Teachers. Reprinted with permission, copyright 1976, by Law in a Free Society Project, pp. 100-103.

Course and Grade Level: Ninth to Twelfth Grades
Social Studies, Vocational Law Enforcement

Topic: POLICE

Topical Question: What attitudes do youth have about police? What stereotypes of this profession are held by the public?

Time Required: One to four class periods

Resources:

Materials; "Crime, Youth and the Police," Bill of Rights in Action, Constitutional Rights Foundation, February, 1977.

Police Patrol, Simulation, Todd Clark, Constitutional Rights Foundation, 1510 Cotner Ave., Los Angeles, Ca., 90025. Phone (213) 473-5094. Grades 7-12.

Available from the Statewide Clearinghouse on Law-Related Education, Room 310A, Metropolitan Hall of Justice, 240 East 400 South, Salt Lake City, Utah, 84111, phone: 535-7770.

People: School Resource Officer

Content: Through acting out specific roles of a police officer provided in the simulation game, the students experience an officer's emotions and reactions and receive feedback from the class on how they perceive the role of a police officer in society.

Objectives: At the end of the lesson, students should be able to:

1. Identify the emotions they experienced while participating in the role playing.
2. Understand or appreciate the reactions of a police officer.
3. Define their own views on the role of a police officer, either orally or in writing.

Procedure:

1. Compile and present to the class an attitude survey about police. Use at least 10 questions for the survey. Questions can vary and change due to the area, current events, time of year, etc. A sample survey is included.
2. The simulation, Police Patrol, is conducted by the teacher. All materials needed are found in the kit. The emotions felt by the students are listed on the blackboard. Following the role plays, the resource officer critiques the student enactments and clarifies current law enforcement procedures.

3. The survey is re-administered and the results are tabulated and announced. If there are any changes, a class discussion should center on reasons why changes occurred.

Evaluation: Compare the survey before the lesson and after the lesson. Class participation is encouraged. The lesson should end with discussion and some questions answered; some thoughts or ideas (stereotypes) changed. Students will show greater sensitivity toward police.

Assignment: (Optional) Have students watch a police series on television and evaluate the emotions and reactions involved in the show. Also, have them respond if the police program portrayed situations that were or could be true to life. This could be a short written essay or a class discussion.

Teacher Comments: For further information, see Television, Police and the Law, Argus Communications, 7440 Natchez Avenue, Niles, Illinois, 60648.

Youth Attitudes Toward Police and Authority

This survey has been designed to help you and your classmates find out how you feel about the police and school authority. The survey may also be used to get a larger sampling of youth attitudes toward the police and authority in your community.

1. Do you think the police in your community treat most teenagers fairly?

   ☐ Yes ☐ No ☐ Not Sure

2. Do you know anyone who has ever been unjustly treated by the police in your community?

   ☐ Yes ☐ No ☐ Not Sure

3. What is your present attitude toward the police in your community?

   ☐ Favorable ☐ Unfavorable ☐ Mixed Feelings
   ☐ Not Sure

4. Do you believe that most police officers in your community would refuse bribes if offered to them?

   ☐ Yes ☐ No ☐ Not Sure

5. Do you feel that police officers in your community generally avoid using physical force against people?

   ☐ Yes ☐ No ☐ Not Sure

6. Do you think police officers in your community generally treat wealthy people the same as poor people?

   ☐ Yes ☐ No ☐ Not Sure

7. Do you think police officers in your community generally treat males the same way as females?

   ☐ Yes ☐ No ☐ Not Sure

8. Do you tend to feel that most police officers in your community treat all racial groups in the same way?

   ☐ Yes ☐ No ☐ Not Sure

9. Police should have the right to use whatever means are necessary to capture and punish criminals. Do you

   ☐ Definitely Agree ☐ Probably Agree
   ☐ Probably Disagree ☐ Definitely Disagree

10. Do you believe that law officers, like state or local police, have the right to be on school campuses? Do you

    ☐ Definitely Agree ☐ Probably Agree
    ☐ Probably Disagree ☐ Definitely Disagree

11. If you felt that you had been mistreated by the police what would you do about it?

    ☐ Complain to the police dpartment
    ☐ Do Nothing ☐ Not Sure

12. Would you like to be a police officer?

    ☐ Yes ☐ No ☐ Not Sure

13. What is your general attitude about school?

    ☐ I mostly dislike school and my teachers
    ☐ I mostly like school and my teachers
    ☐ I have mixed feelings about school and my
    ☐ Not Sure

14. Do you believe teachers treat all students alike?

    ☐ Yes ☐ No ☐ Not Sure

Clark, Todd, Editor, Bill of Rights in Action, Constitutional Rights Rights Foundation, Los Angeles, California, February 1977, p. 10.

Course and Grade Level: Ninth to Twelfth Grades
U.S. History and World History

Topic: THE RELATIONSHIP BETWEEN WAR AND INTERNATIONAL LAW

Topical Question: Can international law serve as a justification for the use of lethal conflict? Can the war in Viet Nam be viewed as a "legal war"?

Time Required: Two to three class periods

Resources:

Materials: Von Glahn, Gerhard, Law Among Nations, New York: MacMillan, 1976, Ch. 25, pp. 517-540; Ch. 26, pp. 541-558; also pp. 696-697 and 704-707. (Copies included)

Wright, Don, Wright On, New York: Simon and Shuster, 1971, pp. 10, 11, 14, 41. (Cartoons included)

Film: "Essay on War," available from Granite and other district media centers and the University of Utah, Instructional Media Services (581-6112). U of U Catalog # ESC 59, 23 minutes, color, 16 mm.

Content: By using some of the basic legal foundations of war, the case study method, and the film, this lesson attempts to show that the use of war can only be viewed as a last resort as man fails to deal with his problems in a non-violent manner. Because man sometimes resorts to the use of lethal conflict, he attempts to put some limitations upon its use (i.e., international law). This lesson will explore some of those limits.

Objectives:

1. To help students understand that war is one of the best known but least understood of man's activities.
2. To show students that international law has tried to deal with the subject of war by:

   a. Limiting the extent of its legal use.
   b. Condemning certain practices of war as inhumane.

3. To allow students to review actual court cases dealing with the subject of war in international law, thus increasing their knowledge regarding judicial decisions and processes in this area.

Procedures:

1. Begin a discussion on the merits of and justifications for war. Use cartoons included to stimulate discussion.
2. View the film, Essay on War. Conduct a follow-up discussion. Have the students discuss the quote, "There has never been a good war or a bad peace."

3. Have the students probe in either discussion or essay form the following question:

   Some varieties of war have come to be regarded as illegal, even as criminal, whereas other varieties are still regarded as legal. What distinctions can be made about a legal conflict and an illegal one? Do you regard the war in View Nam as a legal conflict? Why or why not?

4. At this point you may wish to introduce the students to the Gulf of Tonkin incident and the subsequent resolution regarding it.
5. International law (as recognized in several international conventions) holds that a military commander may be responsible for war crimes committed by subordinates if:

   a. There is actual knowledge of atrocities.
   b. There is knowledge through reports.
   c. Necessary and reasonable action is not taken to prevent such acts.

   At this point the case In re Yamashita, U.S. Supreme Court, 1946, 327 U.S. I (consult Von Glahn, Chapter 27, pg. 706), and the case against Capt. Ernest Medina and Lt. William Calley can be compared and contrasted. Have your students determine why the Yamashita case ended in the death sentence and the Medina/Calley case ended in parole and pardon. Some of the answers to this comparison may lie in:

   a. The extent of the war crimes.
   b. The social mood of the times.
   c. Social attitudes about capital punishment.
   d. The nationality of the accused.
   e. The extent of the aggression on the part of the enemy.

   This could also serve as a good summary activity to tie in the legal nature of warfare and the legal nature of acts committed during lethal conflict.

Evaluation:

1. Students write an essay about the legal or illegal nature of war in general or of the war in Viet Nam.
2. If the class concludes that war is abhorrent, although necessary, have the students construct some general guidelines covering the subject of war:

   a. Its rationale and justification.
   b. Rules of conduct governing war.

Again, consult Von Glahn, Chapter 25, "Legal Nature of War," and Chapter 26, "Laws of War."

RESPONSIBILITY OF MILITARY COMMANDERS

Military commanders may be responsible for war crimes committed by subordinates in their armed forces, or other persons under their control. This would always be true if such acts as massacres and atrocities against enemy civilians or prisoners of war were to be committed. Obviously, direct responsibility ensues for commanders when war crimes are committed under their orders. A commander would also be responsible if he had actual knowledge, or should have had knowledge through reports received by him or through other means, that troops or other persons subject to his control are about to commit, or have committed, a war crime and if he fails to take the necessary and reasonable steps to insure compliance with the laws of war or to punish the violators in question (Law of Land Warfare, par. 501).

Failure of a commander to take preventive steps or to punish acts already committed presumes approval of the act, or at least connivance on the part of the individual in question. This was a major part of the reasoning which led to the death sentence imposed by a United States Military Commission in Manila in 1946 on General Yamashita.[1]

TRIALS BY "NATIONAL" TRIBUNALS

A military tribunal trying an alien accused of war crimes is not bound by procedural safeguards established in that tribunal's own country, as was brought out clearly in the decision of the U.S. Supreme Court on an appeal by General Yamashita against his conviction by a U.S. Military Commission appointed for war crimes trials by General MacArthur in the Philippines. The Supreme Court, in rejecting the appeal from a conviction for failure of a commander to take appropriate measures to prevent violations of the laws of war by troops under his command, emphasized in a classic but much critized opinion that military tribunals trying such cases are not bound by constitutional requirements for due process of law in the domestic sense.

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[1] In re Yamashita, United States, Supreme Court, 1946, 327 U.S. I; consult similar cases cited in Lauterpachts's Oppenheim, Vol. II, p. 573, n. I, and see J. G. Feldhaus, "The Trial of Yamashita," 13 Current Legal Thought (1947), pp. 251-262. There was persuasive evidence in this case that General Yamashita was quite unable to control his disintegrating forces and that he did not order, permit voluntarily, or condone the conduct of which they were guilty.

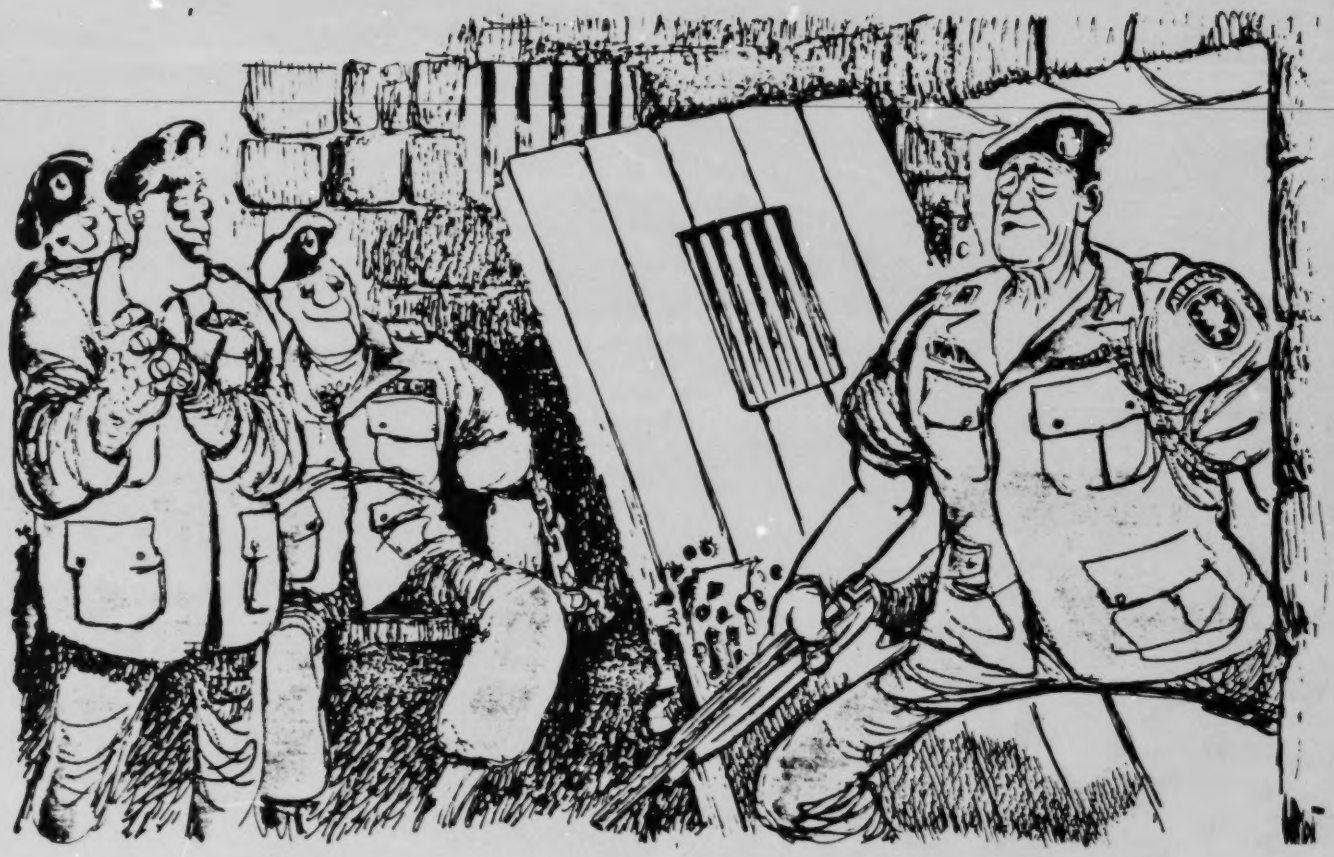
The Vietnam War brought with it a spate of claims of war crimes allegedly committed by both sides in the conflict. Regrettably, the charges appear to have been fully justified in very many instances. No recorded instances of war crimes trials on the part of either Vietnamese government or of the Korean Government (against members of its contingents in South Vietnam) are known to the writer (despite authenticated instances of the commission of such offenses on the part of military personnel of almost all parties to the conflict). On the other hand, the United States Government has prosecuted (or at least filed charges against) a limited number of its military personnel, ranking in grade from privates to generals. Most publicized were the prosecutions of Captain Ernest L. Medina and of one of his platoon commanders, First Lieutenant William L. Calley, Jr. Both officers had been involved in what became known as the My Lai massacre of March 16, 1968.

Originally, the U.S. Army had charged 25 officers and enlisted men with participation in the My Lai killings. Of this total, six were tried and the charges against the rest were dismissed because of insufficient evidence. Of the six, all were acquitted except Lt. Calley. The latter's case became a true cause celebre. He was convicted by a court martial of the premeditated murder of twenty-one Vietnamese civilians. Originally given a life sentence, Calley, on appeal, had his conviction upheld but had his sentence reduced to 20 years at hard labor, which was halved on April 16, 1974. On September 25, 1974, the U.S. District Court in Columbia, Ga., overturned the My Lai murder conviction and ordered Calley freed on bond. The court ruled that Calley had been denied due process of law (massive adverse publicity, denial of his right to confront witnesses). On September 10, 1975, the U.S. Circuit Court in New Orleans reinstated Calley's courtmartial conviction; the Army then changed Calley's status to being on federal parole.

Von Glahn, Gerhard, Law Among Nations, New York: MacMillan, 1976, pp. 696, 705-706.

11/7/69

THE SILENT MAJORITY

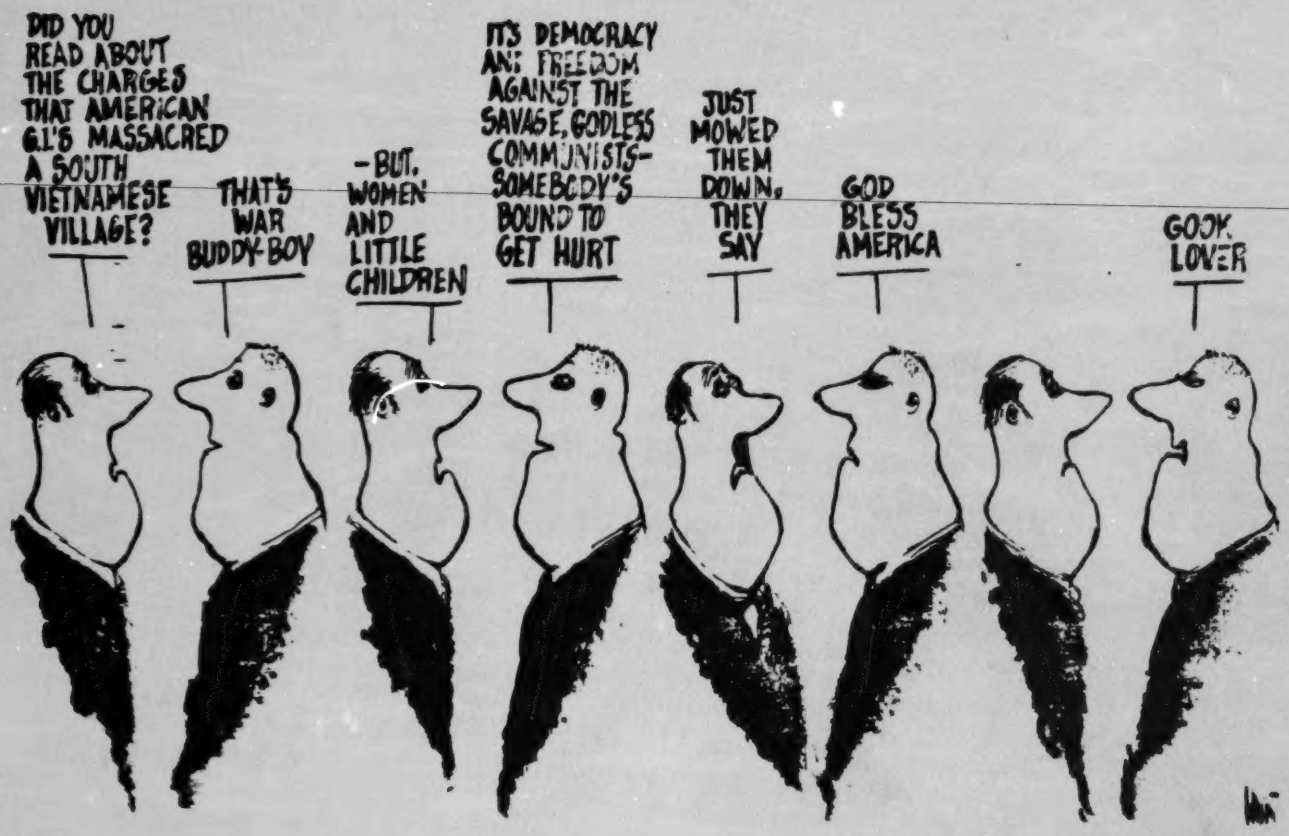


"IT'S JOHN WAYNE! I KNEW HE'D COME!" 8/13/69

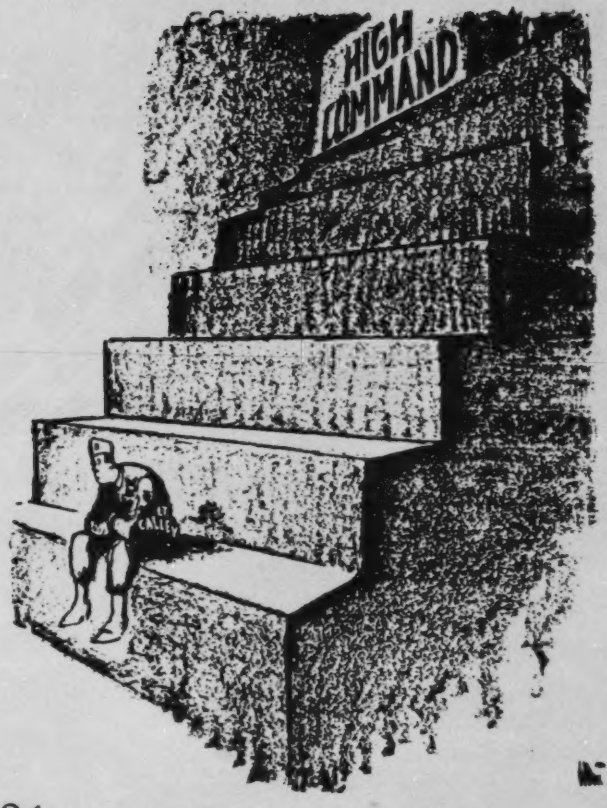
August 6, 1969: Eight Green Berets, including the commander of the U.S. Army Special Forces in Vietnam, were charged with the June 20, 1969, torture and murder of Thai Khac Chuyen, a Vietnamese double agent. The men were held under guard in small, dank cells at the sprawling Long Binh Army base 12 miles north of Saigon.

Not long before this incident, some of the American movie-going public watched John Wayne amble through the jungles of Vietnam thrashing the Communists with make-believe bullets and generally glorifying the effectiveness of this elite corps of jungle fighters. The movie was titled, ring-ingly, The Green Berets.

220

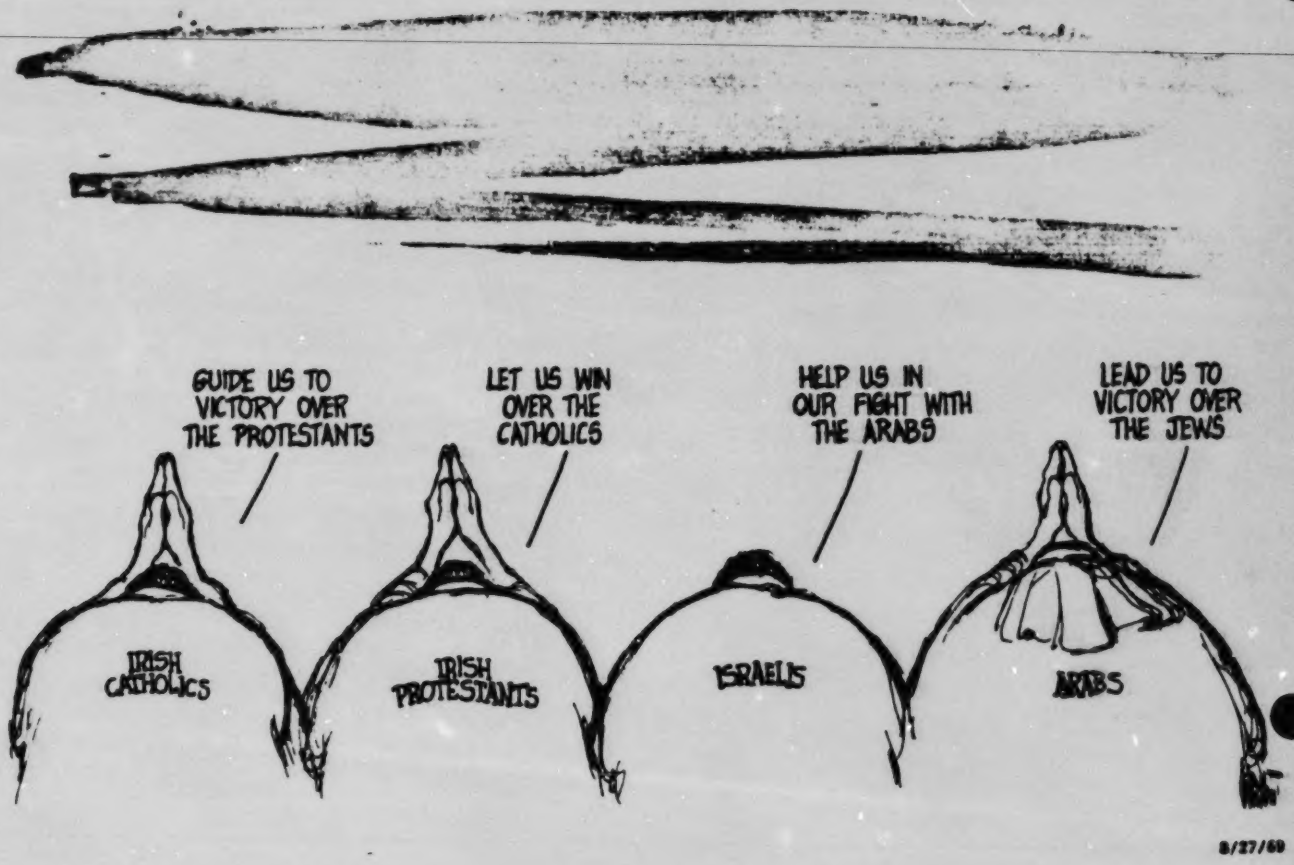

DID YOU READ ABOUT THE CHARGES THAT AMERICAN G.I.'S MASSACRED A SOUTH VIETNAMESE VILLAGE?
THAT'S WAR BUDDY-BOY
-BUT, WOMEN AND LITTLE CHILDREN
IT'S DEMOCRACY AN; FREEDOM AGAINST THE SAVAGE, GODLESS COMMUNISTS- SOMEBODY'S BOUND TO GET HURT
JUST MOWED THEM DOWN, THEY SAY
GOD BLESS AMERICA
GOOK LOVER

11/20/69



November 24, 1969: The Army ordered a "life or death" court-martial for 1st Lieutenant William L. Calley, Jr., on charges of murdering 109 South Vietnamese civilians on March 16, 1968, in the village of My Lai 4.

DARK AT THE TOP OF THE STAIRS 12/12/69



Wright, Don, Wright On, New York: Simon and Shuster, 1971, pp. 10, 11, 14, 41.

Course and Grade Level: Tenth to Twelfth Grades
Social Studies and English

Topic: AFFIRMATIVE ACTION

Topical Question: Are affirmative action guidelines fair when they alter the layoff procedure of a traditional seniority system?

Time Required: Two to ten fifty-minute class periods

Resources:

Materials: Simplified Rules of Evidence. (Found in Teaching Strategies on pp. 24-25.)

Arbetman, Lee P., Edward McMahon and Edward O'Brien, Street Law, Second Edition, Student Edition and Teacher's Manual, St. Paul: West Publishing Co., 1980, Chapter 6.

People: Union Official

Attorney

Content: This lesson involves students in a simulation of an arbitration hearing of a dispute between a worker, on one side and this man's union and industrial employer on the other side. The issue involved is a reduction-in-force (RIF) made necessary by reduced consumer demand for the company's products. The company and union prefer to use a merit system for determining who should be laid off and who should stay on. This would be in keeping with the company's affirmative action plan, and would allow some recently hired women and minorities to avoid being laid off. The employee argues, however, that he should not be laid off since he has greater seniority than some of those who would be kept on.

Objective: Students will be able to explain what affirmative action plans are and will be able to advocate for and against them.

Procedure:

1. Divide the class into either two or four groups of between five and ten students each, depending on the size of the class. (This lesson can be done with ten to forty students.) Assign half the teams to represent the plaintiff (employee) and the other team(s) to represent the defendants (employer and union).
2. Give all students a copy of the case materials. This includes:

   a. The complaint
   b. The answer
   c. Six witness statements:

PLAINTIFF'S WITNESSES	DEFENDANT'S WITNESSES
Anthony Fuelli	Fred Anderson, Minority
Leslie Crown, Former Boss	Patricia Santos, OCR Investigator
Bob Lowell, Co-worker	Steve Collins, Foreperson

Follow the instructions for Mock Trials described in the Teaching Strategies of this workbook!!!

Evaluation: Students can be evaluated on the degree and quality of their participation.

Assignment: Show the movie, Bill of Rights in Action: Discrimination, and allow students to write an opinion for the judge.

Teacher Comment: An attorney can be used in a number of ways to help students prepare for a mock trial. They can discuss procedure and strategy. They can also be used to judge the hearings. That helps when objections are made to the admissibility of evidence.

COMPLAINT

Anthony Fuelli brings this complaint against Bachman Manufacturing (hereinafter referred to as "the Company") and Local 181 of the International Brotherhood of Electrical Workers (hereinafter referred to as "the Union") for binding arbitration. The plaintiff alleges that:

1. On October 16, 1973, the plaintiff applied for and was granted employment with the Company, and has been a satisfactory employee ever since that time.

2. That in November, 1973, the plaintiff became a member of the Union and has been a dues-paying member in good standing ever since.

3. That the terms of the plaintiff's employment were described in the agreement between the Union and the Company entered into in 1971. Which agreement delineates a seniority system that plaintiff relied upon when accepting employment with the Company.

4. That in 1977, the Company hired Fred Anderson and eleven others as part of an affirmative action plan filed with the Office of Civil Rights (OCR).

5. That in 1980, the Company announced lay-offs of twenty employees, one of which was the plaintiff, but Fred Anderson was not one of those laid off.

6. That plaintiff reported these facts to the Union's steward in a timely fashion, but union officials refused to pursue the grievance.

The plaintiff maintains that these facts constitute a breach of the employment contract between the plaintiff and the Company.

The plaintiff further maintains that these facts constitute a violation of the Union's duty to represent all employees.

Finally, the plaintiff asserts that the above facts constitute a violation of his civil rights in violation of the XIV Amendment and the 1964 Civil Rights Act.

Wherefore, the plaintiff prays for relief including reinstatement and back pay.

THE ANSWER

Defendants, Bachman Manufacturing (hereinafter referred to as "the Company;) and the Local 181 of the International Brotherhood of Electrical Workers (hereinafter referred to as "the Union") respond as follows to the allegations of the plaintiff:

1. Defendants accept allegations numbers 1 and 2.

2. Defendants deny plaintiff's allegation number 3.

3. Defendants accept plaintiff's allegations number 4, and 5.

4. Defendants deny plaintiff's allegation number 6.

In addition, defendants allege:

5. That prior to 1976, the Company has a pattern and practice of discriminating against minority applicants for employment.

6. That in 1975, Fred Anderson, a qualified applicant who had been denied employment with the Company on the basis of his race in 1972 and again in 1974, filed a complaint with the Office of Civil Rights (O.C.R.) of the Justice Department.

7. That the O.C.R. investigated and found a pattern and practice of discriminatory hiring practices on the part of the Company.

8. Whereupon, the Company and officials of the Union negotiated an agreement which altered the seniority system established between the Company and the Union in 1971. This agreement was filed jointly by the Company and the Union with the O.C.R.

9. That as part of this agreement, the Company agreed to reserve fifty percent of its employment openings for qualified minorities. Also, as part of this plan, the Company agreed to adopt a system for reducing the work force, if necessary, which would include merit considerations for the first time.

10. That Fred Anderson was hired by the Company in 1977 in accordance with the plan filed with the O.C.R.

11. That the plaintiff has a work record that is less than satisfactory with frequent lateness and absence.

12. That the Company was forced to lay off 10% of its work force in 1980 because of decreased demand.

13. That the Company used the reduction-in-force (RIF) plan that was a part of the O.C.R. plan and that on that basis the plaintiff's poor work performance placed him within the 10% of the workers to be laid off.

The defendants deny that this lay-off procedure is a breach of contract with the plaintiff and, therefore, urge this arbitration board to deny plaintiff the relief he seeks.

Plaintiff's Witness Statements:

1) Anthony Fuelli

I am married and I have three children from ages six to twelve. Annette, my wife, works outside the home selling Avon products, but the cosmetic market has been depressed lately so her commissions have been low. I have worked for Bachman Manufacturing since 1973, but I was laid off in 1980 when the demand for air conditioners "cooled off."

Several things made me mad about the lay off. First of all, I feel that I'm a good worker and there's plenty of others who aren't. Secondly, Steve Collins, the foreperson, has been on my case ever since I fixed his T.V. a while back. Since that time, I haven't had a fair evaluation.

Most aggravating, though, is that I feel like I'm having to suffer for a mistake someone else made that wasn't my fault at all. I never discriminated against anyone.

My job at Bachman involved wiring thermostats. I have always been mechanically inclined, and although I had no formal electronics training, I had worked as an assistant to a T.V. repair person, Leslie Crown. When Bachman announced some openings, I applied for the job. Ms. Crown called the personnel director who was a friend of hers, and recommended me. The personnel director interviewed me and felt I could do the job. Because of the interview and recommendation from Leslie, the director overlooked the Company's normal policy of requiring some formal electronics training.

I am of strong ethnic Italian background. I have always been proud to be one of many "minorities" that helped to build this country. My grandparents came to this country three and four generations ago with practically no money or education. They worked their way to a comfortable middle-class life. Now I'm being told people of my minority have to be punished so members of another minority and women can be helped.

I have always told my children that every person is an individual and should be treated as one. I believe affirmative action treats people of a group as if they were all the same. That's the very kind of generalization affirmative action was supposed to stop. I don't understand. They say the old seniority system wasn't fair. Affirmative action is supposed to end discrimination. Well, if you ask me, affirmative action is the one that's not fair - it's discriminating against me.

2) Leslie Crown

My dad was one of the first T.V. repair persons around back in the early 1950's when T.V. first came out. I used to go out on calls with him. He taught me everything I know about T.V.'s. I never went to technical school because I figured that I already knew how to fix any T.V. around. Formal training doesn't mean much to me - it's what you know that counts.

Tony Fuelli was a person like that - no formal training but he had a good sense about electronics. He was eager and caught on fast. Another reason I hired him was because he didn't seem to be bothered by the idea of working for a woman. You know there aren't very many T.V. repair-women out there and sometimes that's a problem.

I sure do like the business, though. I took over Dad's business in 1969 when he retired. I guess you could say I'm the independent type; I like being my own boss. Fixing T.V.'s is fun because I get to work with my hands; that's something I've always liked. Plus you make something work that had been broken. It's a good feeling.

Business was going fairly well until about 1972-73. There was an economic crunch then and I had to tell Tony that I would have to cut his hours to only 30 a week. That put him in a bind. You know, he has a family and all. So when Bachman's had that opening, he applied for it. He asked me for a recommendation. It turns out that the personnel director over at Bachman's was a friend of mine. I figured that helped him out a little. And he needed a little help because they were looking for a person with formal training. I told them Tony could do the job. The only thing I couldn't say about him was that he was punctual. He was kind of late sometimes and then we'd get behind schedule or even miss some calls. That used to bother me because I'm the kind of person that likes to stick to a schedule and get things done on time. At any rate Tony got that job at Bachman's and I thought everything was going okay until I heard about him getting laid off. I hated to hear that. You hate to see nice people like that fall into bad times.

3) Bob Lowell

I was hired on just about the same time as Tony, although I've known him longer than that. He and I are old buddies. Sometimes after work or on weekends we'd get together at the L & J's bar right down the road from the plant and have a few beers and throw some darts.

I was kind of wondering if they'd lay Tony off. He was having some problems with Collins, the foreperson. He thought Tony was late too much or something. In fact, I was even worried about getting laid off myself - well, all the guys were since the old seniority system was thrown out. You see, there were a few times when I'd be late too because Tony and I had been out doing something together. But I guess I was lucky. Collins must have figured that I was doing okay. I do manage to keep up with the production schedule. In fact, sometimes I'm even a bit ahead.

I'm really sorry to see the seniority system go. With that system you knew where you stood with the Company. You were either a satisfactory worker or not. And if not, then it was up to the Company to fire you. If you were satisfactory, you couldn't be laid off until all those in your job category who'd been hired after you had been laid off. Everyone was treated the same no matter if you were Black, White, Brown, Asian, male, female or Republican.

As I said before, Tony and Collins had some problems. Once they really got into a heated argument over some personal matters. Collins has been on Tony's case ever since. Tony's evaluations have been lower and now he's getting laid off. Under the old system Tony would still be here and those new guys who don't have as much experience would be laid off.

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Defendant's Witness Statements:

1) Steve Collins

I am a foreperson for Bachman Manufacturing. I have worked for the Company about twelve years. I started with the Company as a regular line worker. After four years I was promoted when the production expanded. In my unit, I have between 20 and 25 workers that I supervise.

I get along well with those I supervise and manage to keep production on schedule. I like to get to know the workers under me at a personal level. That's how I found out that Fuelli used to repair T.V.'s. Figuring Anthony would like the chance to earn some extra money, I offered to pay him to fix a busted T.V. I had. He looked at it and he told me to buy all these expensive parts, which I did. After Fuelli installed them, however, the set still didn't work right.

I repeatedly asked Fuelli to look at the set again, but he kept putting me off. I thought that was so irresponsible I wondered what kind of employee Fuelli was. After that I felt it was my obligation to keep an eye on him and make sure he wasn't harming the Company. Sure enough, I found he was coming in late pretty often and making up excuses to leave work early on occasion.

Anderson, on the other hand, is a fine worker. He volunteers whenever overtime is needed. He also has suggested some improvements in efficiency. I've passed some of them on and the management has taken them. That makes me look good, as well as our whole division.

At first I was afraid that having minorities in the plant might cause problems. I guess those days are long gone, though. I hope so. We've been missing some good workers in the past.

2) Patricia Santos

I am the investigator who investigated Bachman's personnel practices after my office received Anderson's complaint. What we found was a classic case of employment discrimination. Though Bachman employed around 100 electrical workers in the production area, outside of a few women who did some tedious wiring jobs where small hands were necessary, there were no minorities or women.

The available labor pool around the factory region included roughly as many qualified women and minorities as white males. This includes using the Company's own hiring criteria. Further, qualified minorities and women applied to Bachman's at the time when job openings were available. Nonetheless, minorities and women were denied employment while white males who were sometimes less qualified were hired.

When we shared our findings with Bachman's management, they were somewhat surprised. They knew their work force was almost entirely white and male, but they never had a formal policy of discriminating. Apparently what had happened was that as jobs became available, someone always knew someone who would be good, so they were hired. There were no set procedures for publicly announcing vacancies and then objectively screening all candidates. So getting a job at Bachman amounted to "who you knew" rather than any intentional policy to exclude women and minorities.

After becoming aware, the Company voluntarily met with the Union and worked out an affirmative action plan. Basically all that the Company and Union agreed to do is:

1. Develop a job description for each opening which would include the training that the applicants should have.
2. Develop means for advertising job openings where minorities and women would have as good a chance of seeing them as white men.
3. Develop an objective method for screening candidates for jobs so that the person to get a job would be a person who was qualified, not just someone who knew someone.

Bachman further agreed they would hire Anderson and eleven other qualified applicants who had applied to Bachman in the past but had been refused employment.

A lot of this controversy centers around Anderson because he is the only one of the twelve who is still working for Bachman who was not included in the layoff. Five of those twelve had left Bachman voluntarily or had been fired before now. Six of the remaining seven were included in the layoff because their work records were not good enough to compensate for their lack of seniority. Only Anderson remains.

What I want to point out is this: If Bachman hadn't discriminated against Anderson years ago, Anderson might have been hired instead of the plaintiff. All these years, Anderson would have been earning a good living instead of Fuelli; Anderson would have been earning seniority instead of Fuelli. What Fuelli wants this arbitration panel to do is punish Anderson even more.

It is unfortunate that anyone has to get laid off, but if someone does, it shouldn't be Anderson.

3) Fred Anderson

I am a middle-aged family man. I have two children who are both in school. My wife used to work as a domestic until I got my job with Bachman. Since then, she has been a full-time homemaker and parent.

I served in the army during Viet Nam. After I returned, I experienced the same problem many Vets did - difficulty in getting a job. After several years of menial labor jobs, I decided to capitalize on the electronics training and experience I had received in the service. Using my "GI" Bill, I enrolled in an electronics technical program at a community college nearby.

I completed the degree program after two years of night school while continuing to do labor jobs during the day. At that point, August 5, 1972, I applied to the major electronics employer in the region, Bachman Manufacturing. I was politely told by the personnel director that the Company wasn't hiring then, but that I was very qualified. I was told they would keep my name on file and call me as soon as openings were available.

I had the impression the Company would call me fairly soon, so I just kept my day labor work and waited. Months stretched into years and I still hadn't heard from Bachman. Other electronics employers in the area weren't hiring either, so I felt pretty hopeless. Finally, I heard about some other employees being hired by Bachman, so in 1974 I reapplied. At that time I was told what I was told before - I was very qualified but no openings were available. Again, I was told they would call me when openings came up.

I had no doubt I was being discriminated against because I am black, so I reported what had happended to the regional office of the Office for Civil Rights of the Justice Department. They had an investigation which confirmed what I had told them. The Company then voluntarily worked up an agreement with the Union and I was hired along with about eleven other minorities and women.

I work very hard for Bachman; I'm willing to forgive and forget and use this chance for all it's worth. I've tried hard to put the kind of work record together to make me eligible for a promotion or at least to protect me in case of a layoff. I have been commended several times by my foreperson, and my suggestions about how production could be increased through efficiency are being heard and sometimes tried.

Course and Grade Level: Tenth to Twelfth Grades
U.S History, Sociology, Psychology,
Contemporary Problems, Law Classes

Topic: FAMILY LAW IN UTAH

Topical Question: How do laws affect our families?

Time Required: Three class periods

Resources:

Materials: Copies of recent newspapers.

Newman, Jason and Edward O'Brien, Street Law, 1st Edition, St. Paul: West Publishing Company, 1975, Ch. 4, "Family Law," pp. 117-139, Teacher Manual pp. 177-220. (Copy included)

Practical Law in Utah, 1st Edition, Utah Supplement to Street Law, Salt Lake City: Utah State Office of Education, 1979, Ch. 4, "Family Law," pp. 31-36. (Copy included)

Content: Laws directly affect our family relations as children and parents. As students assume more family responsibilities, they need a basic understanding of how Utah laws will directly affect their lives. Family law is in a transition period and students need to understand and analyze the justification of family laws.

Objectives: At the end of the lesson, students will be able to:

1. Explain how family laws presently affect their lives.
2. Describe what laws will affect them in the future.
3. Examine the purpose, justification, and fairness of the laws discussed.
4. Point out daily occurrences in the newspaper and how these incidents are specifically affected by Utah family law.

Procedure:

1. Divide the class into groups of 5-6 students.
2. On large poster paper to be hung in the class, have each group list as many laws as they can which affect the family.
3. Have each group post sheets in front of the class and discuss different types of laws.
4. Pass out "Family Law Problems" and have students answer questions using the chapter on "Family Law" in Practical Law in Utah.
5. Discuss the questions and the justification and fairness of each law. What different ways might the laws be interpreted? Should some laws be changed? How might these changes affect the persons involved?

Evaluation: Students will examine recent newspapers, and in a written evaluation discuss five incidents that would be under the legal jurisdiction of Utah family law.

Teacher Comments: This lesson can be used as an introduction to a family case study using the adversary approach or a mock trial case, etc. Suggested cases are St. Clair v. St. Clair or Scarpetta v. State of New York which are discussed in Street Law, p. 139.

Street Law, Second Edition, also has a chapter on "Family Law" (Student Edition, pp. 167-217; Teacher Manual, pp. 143-189.)

FAMILY LAW

Problems

Marriage

1. Jim Reynolds is a member of a religion which encourages all of its men to have two or more wives. Jim marries Ivy in Salt Lake City, Utah, following all of Utah's marriage laws. Later he decides to carry out his religious duties by also marrying Olive.

   A. If Utah has a bigamy law, which, if any, of Jim's marriages are valid under Utah law? Which would be valid if the family travels to other states?
   B. Does the Constitution's guarantee of "freedom of religion" affect your answer?

2. Ruth became pregnant and told her parents that Joel was the father of the baby. Ruth's father told Joel at gunpoint that he would be killed if he did not marry Ruth immediately. Fearing for his life, Joel married Ruth within a week.

   A. Can this marriage be annulled?
   B. If so, by whom and on what grounds?

3. Pam and Peter married. Pam knows that Peter wants a large family, so she waits until after the marriage to tell him that she did not want any children and is going to have herself sterilized.

   A. Can Peter have the marriage annulled?
   B. If so, on what grounds?

Divorce

4. Beverly knows that her husband Ray is going out with other women; finally she leaves him. Can she get a divorce immediately or after some time?

   A. Can Ray get a divorce on these facts? On what other grounds might he get a divorce?
   B. Suppose that Ray agrees to Beverly's leaving. Can either or both of them get a divorce? If so, on what grounds and how long will they have to wait?
   C. Suppose they want a no-fault divorce. Can they get one in Utah?

Custody of Children

5. Rufus and Rose Dixon want a divorce. Both want custody of their two children, a three-year-old boy and a 14-year-old-girl. Rose is guilty of adultery. Furthermore, she sometimes dresses her children improperly, keeps a dirty apartment, and once sent

her daughter to grandma's house for a year during which time she never once inquired about the child's health or welfare. She also forced the children to call Rufus "uncle." There was no evidence that Rufus might be an unfit parent.

A. Who will probably receive custody of the children?
B. Do you think that Rose's adultery is likely to affect the court's decision?
C. In what way might the daughter's age affect the decision?

Alimony

6. Jessie and Bessie agreed to a divorce. Bessie was employed as a maid and earned $279 each month. Bessie had worked only part-time during the marriage. Her expenses were $261 per month. Jessie had a job as a carpenter and earned $500 per month. He claimed his expenses were $461 per month. There were no children. Bessie asked for $50 per month in alimony.

   A. Should the court grant her request?

Duties of Parents

7. Randal Scot is 15 years old. His father became angry at him for not helping out around the house and cut off his allowance of $3 per week, though he still lives and eats at home. Randal has no other money and cannot go to the movies or buy anything.

   A. Has Randal's father committed a crime?
   B. What if Randal needed the $3 to take a bus to school, then has the father committed a crime?
   C. What if Randal's father refuses to buy Randal new clothes when his clothes wear out? Is this a crime? What should Randal do?

8. Harvey and Mercy Turner are separated but still married. They have one daughter, Gladys, who is eight years old. Harvey is employed but refuses to support his family, partly because he thinks that Mercy has begun to live with another man. Mercy opens a charge account in her own name at Adenbach's Department Store. She buys several items of infant's clothing, a dress for a young girl and a sports jacket for a young boy. When Mercy does not pay her bill, Adenbach's sues Harvey for the money.

   A. Which items should the store recover, if any, and why?

Child Abuse

9. Elizabeth Mullen is on welfare and is trying to support two children (ages 7 and 3). Elizabeth has trouble finding anyone to watch the children when she goes out to shop, to get food stamps, or to see her social worker. To prevent the children from getting into trouble, she has gotten into the habit of

chaining or tying them to the furniture when she has to leave the house for a few hours. One day the children are injured while trying to get out of the chains. Elizabeth takes them to the hospital as soon as she gets home. A doctor there calls the police department to report what he thinks is a case of child abuse.

A. Should Elizabeth be convicted of the crime for child abuse?
B. What might be done in this situation?

10. A. What legal responsibility does the father of an illegitimate child have?
    B. Must the natural parents of the child always consent to the adoption?
    C. How old must you be to write a will? Must a will be in the handwriting of the person making it?
    D. If a female is under 18, must her parents be notified of an abortion?

Problems taken from Street Law, First Edition, Chapter 4.

CHAPTER FOUR

FAMILY LAW*

A. GETTING MARRIED

1. Formal (Ceremonial) Marriage

In Utah both males and females may marry at the age of eighteen without the consent of their parents. With parental consent the minimum legal age for marriage is sixteen. A person under sixteen years of age may marry if a licensed physician issues a certificate of pregnancy to the county clerk, the parents consent to the marriage, and the individuals marrying are at least fourteen years old.

Unlike some states, Utah requires no waiting period before a marriage license may be issued. If the marrying couple satisfies the blood tests, age, residency and other requirements, the county clerk may issue a marriage license on the same day the application is made. However, the license is valid for only thirty days. If the couple fails to marry within this period, they must apply for a new license.

A marriage ceremony may be performed by a minister or priest of any church (including bishops or other designated authorities of the Mormon church), a justice of the peace, mayor, judge or county clerk.

2. Common Law Marriage

A common law or informal marriage is one not solemnized in the ordinary way and is created by 1) an understanding between the parties to live together as man and wife, 2) their actual cohabitation, and 3) recognition of their marital status by the state where they reside. Common law marriages are not recognized in Utah when the parties initially reside in Utah; however, such marriages are recognized if the marriage was properly created in another state which permits them. If a Utah resident goes to a state which recognizes common law marriage for the sole purpose of entering into a common law relationship and returns to Utah, the marriage will not be recognized as valid. 1/

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*This chapter was written by Ronald W. Eubanks, Esq., Union Pacific Railroad Company, Salt Lake City, Utah.

1/ In Re Vetas' Estate, 110 Utah 187, 170 P.2d 183 (1946), the Utah Supreme Court held that persons domiciled in Utah may not go into another state, enter into a common law marriage, and then return and have the marriage recognized as valid in Utah.

B. ENDING MARRIAGE

1. Ending Void and Voidable Marriages

Utah does not recognize marriages (a) involving incest; (b) where at the time of the marriage one party is infected with syphilis or gonorrhea that is or may become communicable; (c) where one party has a living, undivorced spouse; (d) where an unauthorized person solemnized the ceremony (except in situations where the parties honestly believed that proper authority existed; in these cases, the marriage is recognized even though the person performing the ceremony was not authorized to do so); or (e) where one party's divorce to a previous spouse has not become final at the time of the second marriage. A marriage involving one of the above elements is void and without legal force or effect. In other words, the law treats the couple as though they were never married, although a court has the power to divide property, award support and make orders respecting children.

Marriages induced by fraud or coercion or which involve persons who are under age or physically or mentally incapacitated are voidable under Utah law. That is, these marriages are considered valid unless one or both parties asks the court to grant an annulment. Once annulled, the law considers the marriage to have never existed. Courts generally will not annul a voidable marriage if children have been born or conceived during the marriage; usually the court will end the marriage by a divorce proceeding just as though the marriage had been valid.

2. Divorce

A divorce is a court decree terminating a marriage. A Utah resident may obtain a divorce on any of the following grounds: (a) impotency on the part of the spouse at the time of the marriage, (b) adultery by a spouse during the marriage, (c) willful desertion by a spouse for more than one year, (d) failure of the spouse to provide the other with the common necessities of life, (e) habitual drunkenness by the spouse, (f) conviction of spouse of a felony, (g) cruel treatment of one party by the other to the extent of bodily injury or great mental distress (this is most commonly used), (h) living three years without cohabitation under a decree of separate maintenance, (i) permanent insanity of the defendant.

Unlike some states, Utah does not allow "no-fault" divorces. The court will not grant a divorce unless it makes a finding of fault on the part of one of the parties. If the court considers both parties to be at "fault," the divorce may be granted to each. It should be noted, however, that the party or parties "at fault" will not be deprived of his or her share of marital assets.

In order to obtain a divorce in Utah, one of the parties must be a bona fide and actual resident of the county where the action is filed for three months prior to the time the action is brought.

The court will not usually conduct a divorce hearing or trial until at least three month after the complaint for divorce has been filed. Once this

period has elapsed, a hearing or trial is held and evidence is taken on the issues raised by the complaint. Sometimes the parties have agreed on the issues of property settlement by the time the hearing takes place. If the court feels that the agreement is fair to all parties involved, including any children of the parties, a decree of divorce will be granted based upon the terms of the parties' agreement. If an agreement is not entered into, the court conducts a trial and the parties present evidence to support their positions. The court then decides the issues of child custody, property division and payments of support and alimony. The court's decision with repsect to these matters is set forth in the decree of divorce, which decree becomes final not less than three nor more than six months after it is signed by the judge, unless the court at its discretion waives any waiting periods required by the statute.

The period between the time the divorce decree is signed and the time it becomes final is called the "interlocutory period." If the couple reunites during this period, the divorce does not become final and the marriage is not terminated.

3. Legal Separation

Either spouse may file an action for separate maintenance in Utah. Unlike a divorce, a separate maintenance decree does not terminate the marriage. The parties are merely living apart under terms decided by the court. To obtain such a decree, one spouse is required to show (a) desertion without good and sufficient cause or (b) failure of the other spouse to provide adequate support. In a separate maintenance action the court has the power to dispose of property, determine custody of children and award support and alimony payments. Unlike an action for divorce, it is not necessary for the plaintiff to be a three month resident of the county where the action is filed.

4. Custody of Children

The courts have the authority to determine which parent shall retain custody of the children in both divorce and separate maintenance actions. The law in Utah traditionally favored the mother when determining custody issues, but under present law parents are considered to have an equal right to custody of their children. In determining who should have custody, the welfare of the child is considered to be the most important determining factor. A request by an older child that he be placed with a particular parent is usually given consideration by the court but is not controlling on the issue.

The court also has the power to place custody of children with a third party where the court finds that neither parent is fit to retain custody.

5. Child Support, Alimony and Property Division

The court may make such orders regarding custody of the children, division of property, and support of the parties and their children as it considers fair and reasonable. The court always retains the authority to make subsequent changes

in its original order when circumstances make such changes necessary; however, questions of property division are usually considered final unless appealed within 30 days from the date the decree becomes final. The court will order visitation to the non-custodial parent and may award visitation to grandparents. The normal provision for visitation awarded by the court is "reasonable visitation rights," unless the court considers such visitation rights not be in the best interest of the child.

The court may order either parent to pay child support and may award alimony to either spouse. In deciding whether alimony should be paid and in what amounts, the court considers the following factors: (a) the property of each spouse, (b) the ability and opportunity of each spouse to earn income, (c) the health of each spouse, (d) the station in life of each spouse.

6. Obtaining the Services of an Attorney

If a Utah resident cannot afford to pay for a divorce, he or she may qualify to receive free legal assistance from various legal aid programs operated in the state. Among the agencies providing such services are the Legal Aid Society and legal service offices operated and funded by the Utah State Bar and other county bar associations. If a person can afford a private lawyer but does not know one, he may contact the Lawyer Referral Service of the Utah State Bar for suggestions.

C. RIGHTS AND DUTIES OF PARENTS AND CHILDREN

1. In General

The age of majority in Utah is 18 for both males and females. The marriage of a minor automatically terminates his minority status.

Parents are required to send their children (ages 6 to 18) to public or accredited private schools until the child completes high school. Children over 16 years of age who have completed the eighth grade are excused from mandatory attendance if they are employed, but they are still required to spend 144 hours per year in class.

A husband and wife are equally obligated to provide adequate and proper support for their minor children. Parents may be held criminally responsible for their willful failure to support their children. The obligation to support minor children may be terminated only by adoption of the children by other individuals. This support obligation does not extend to minor children who have reached their majority by marriage.

A parent (or any adult) who physically abuses a child may be held criminally and civilly liable for such actions; a person convicted of child abuse may be fined and sentenced to prison. Both district and juvenile courts have authority to protect an abused or neglected child by appointing a guardian, by awarding custody to a third party and by such other orders as the court deems necessary to protect the child's interest.

2. Rights of Illegitimate and Adopted Children and Stepchildren

Utah laws protect the rights of all children living in Utah, including illegitimate and adopted children. The father of an illegitimate child (born out of wedlock) is responsible for all expenses relating to the birth, education and maintenance of the child. An action to compel the father to furnish these expenses may be brought by the mother, the child or a state agency. The father is also responsible for all expenses incurred on behalf of the child within four years prior to the time an action is brought.

An action may be brought to determine the identity and responsibility of the father of a child within four years after birth (paternity suit). The marriage of the child's actual parents legitimatizes a child born out of wedlock.

Illegitimate children may always inherit on an equal basis with legitimate children from a mother. An illegitimate child may inherit from the father only when his parents have married or when paternity has been established by a court of law.

Utah law does not recognize rights or duties existing between a stepparent and a stepchild. Accordingly, a stepchild does not inherit from a stepparent who dies without leaving a will, nor is there an obligation imposed upon a stepparent to financially support a stepchild. 2/

A minor child may be adopted by an adult person provided: (a) the adopting parent is at least 10 years older than the child, (b) the adopting couple consent to adopt; (c) the natural parents of the child consent to the adoption (except where the court determines that a parent abandoned the child by failure to support or communicate with the child) and (d) the adoptive child consents if over 12 years of age. Adoption gives a child the name of the adopting parent and all legal rights and duties of a natural child.

Once an order of adoption has been entered by the court, all records pertaining to the adoption are sealed and may be opened only by order of the court. The Department of Records is authorized to issue a new birth certificate of the adopted child, stating the adopting parents to be the natural parents.

3. Government Support for Needy Families

The Utah Public Assistance Act of 1961 provides a broad range of social services available to needy residents of Utah. Unemployment compensation benefits are available to employees who lose their jobs and are unable to find employment. General assistance programs provide financial and medical services to the poor,

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2/ Legislation has been introduced which, if passed, would recognize such a relationship and impose an obligation of support on the stepparent; however, such legislation has not been enacted as of the date of this publication.

elderly or disabled and to dependent children in need of care. These programs are normally administered by the Utah Department of Social Services or the Industrial Commission of Utah.

4. Inheriting Family Property

Under Utah law any person 18 years of age or older who is of sound mind may make a will. The will must be in writing, signed by the person making the will, and either witnessed by two persons over 18 years of age or in the handwriting of the person making the will.

If a Utah resident dies without a will, his property is distributed to his spouse and children. If there is no living spouse or child, it is distributed to parents. If they are not living, the property is distributed to the decedant's brothers and sisters. If there are no living brothers or sisters, the property is distributed among other relatives, and finally, if there are no surviving relatives, the decedant's property is turned over to the state.

5. Birth Control and Abortion

A Utah business is required to secure a license from the state before it can sell birth control devices. The law allows only married persons or persons over the age of eighteen to purchase such devices.

Abortion is generally obtained only in situations where (a) the mother is in the first three months of pregnancy and the abortion is required to preserve the mother's health, (b) the operation is performed in a hospital licensed by the state, (c) the attending physician concurs in the decision to abort, (d) the mother has provided her written consent, (e) the parents of a female who is under 18 years have been notified, and (f) the father has been notified if the woman is married. Under more stringent requirements an abortion may be obtained during the second three months of pregnancy. There is no abortion on demand under present Utah law.

6. Guardians, Foster Homes, Child Care Institutions

If, for some reason, a parent is unwilling or unable to care for his children, Utah law provides that the court may appoint a guardian to protect the child's interests and welfare. A relative of the child, the child himself if over 14, or the Department of Social Services may petition the court to appoint a guardian. If permitted by the court, a minor over the age of 14 may choose his guardian. A guardian's power is terminated when (a) ordered by the court, (b) the minor reaches 18 years of age, or (c) the minor marries.

When there is no one available or willing to assume the role of guardian, the court will appoint the Department of Social Services as guardian, and DFS will then place the minor child in a foster home or, if none is available, in a child care institution.

Practical Law in Utah, 1st Edition, Utah Supplement to Street Law, Salt Lake City: Utah State Office of Education, 1979, Ch. 4, "Family Law," pp. 31-36.

Course and Grade Level: Tenth to Twelfth Grades
Business, Law, Social Studies

Topic: CONTRACTS

Topical Question: When does a promise become a legally binding obligation?

Time Required: One fifty-minute class period

Resources:

Materials: Civil Justice, Living Law Series, New York: Scholastic Book Services and Constitutional Rights Foundation, 1978, Ch. 5, pp. 59-71. (Copy included)

Content: Students will become involved in an activity which will require negotiating. The debriefing of that activity will include a discussion of the concept of "consideration," what value each party to a contract provides in order to obligate the other party to perform their promise to provide something of value. A series of examples will then broaden students' concept of consideration by exploring the "gray areas" of what constitutes consideration.

Objective: Students will understand the requirements of consideration for a binding contract, and will be able to distinguish agreements based on consideration from those which are not.

Procedure:

1. Grabber/Introduction - Have students play the enclosed activity, "Get Acquainted Swapmeet." Introduce the activity as one which will help students get to know one another better. Try to avoid references to the actual content of the lesson. Instead, offer two or three awards for those who finish first. For example, you might offer 15 bonus points for the first to complete the assignment, 10 for the second and 5 for the third. Or, you might excuse the first two completers from a quiz. Any significant benefit or privilege will do, but remember, choose a reward you can live with. By the end of the lesson your students should be ready to "take you to court" to get their reward.

   Distribute the handouts for the activity and briefly touch on the rules at the top of the sheet. Then allow the students to engage in the activity.

   After you have your winners, have the students return to their seats and begin the debriefing. The debriefing for this exercise is actually part of the exercise. Tell the winners you were

only kidding about the reward. You really just wanted to motivate them to take the exercise seriously. Then begin discussing the point of the lesson: consideration. Ask students if bargaining was occurring. Ask what a bargain is. Were people willing to sign their initials without getting something in return? Why not? Did anyone promise to sign, but not carry through? Why? Should that promise have been enforceable? Should all promises be enforceable? How? If not all, which should be?

When sufficient discussion has occurred (the lesson thus far should take between 20 and 30 minutes), explain that the common law in our country only enforces promises supported by "consideration." Explain what consideration is: the value we provide in order to get someone else to provide us with something of value.

2. Ask students if they feel the following examples ought to be classified as consideration suitable to make a promise binding. After briefly discussing each, share with your students how the law treats these examples.

a. I'll pay you $50.00 if you agree to paint my porch this summer.

a. Enforceable. This is the standard promise for a promise.

b. Carol says to Ned, "I'll teach you how to blow bubbles with your gum if you buy me some gum. Without saying anything, Ned buys Carol some gum.

b. Enforceable. This is a unilateral contract, where a promise to perform is exchanged for the action, itself.

c. A wealthy business woman offers a $500 reward for each burglar "caught in the act." While on patrol, Officer Martinez apprehends a burglar in the process of committing the crime. He tries to collect the reward.

c. Unenforceable. Because the officer was already under the obligation to catch burglars, he gave up nothing of value when he did his job.

d. Grandma Gertrude tells her grandson, "I'll buy you a car when you're twenty-one, if you don't smoke a cigarette until then." Grandson doesn't smoke until he is 21.

d. Enforceable. The grandson gave up the right to do something he could have done otherwise.

e. A teacher says, "Sandy, I'll give you ten extra points if you carry these cartons out to my car." Sandy carries out the cartons.	e. Enforceable. This example will lead back to the activity. At this point students should be telling you that you owe them their reward. They are right, and have learned about consideration.

3. Give the students their rewards!!!

Evaluation: Reprint stories one and two on pages 61 and 62 of Civil Justice. Have students discuss which, if either, situation represents an enforceable contract; have them explain.

Assignment: Do problem number three on page 68 of Civil Justice, Scott v. People's Monthly. Have students discuss who should prevail, and why.

Teacher Comments: This lesson offers an opportunity to distinguish right and wrong from legality. This law enforces only some promises, but many unenforceable promises should be carried out. Discuss why the law does not always require the "right" thing.

GET-ACQUAINTED SWAPMEET

Object: To discover any 8 of the following 12 facts about your classmates as quickly as possible.

Rules:
1. You may talk and leave your seat.
2. When you find someone fitting any of the 12 descriptions, ask them to sign their initials to your sheet.
3. You may sign anyone else's sheet, but you do not have to.
4. Work will be validated and forgers will be disqualified.

1) Someone who writes poetry _____ Initials	2) Someone who jogs regularly _____ Initials	3) Someone who has been to Canada _____ Initials
4) Someone who has had braces for over one year _____ Initials	5) Someone who has read <u>The Lottery</u> _____ Initials	6) Someone who has only one sister _____ Initials
7) Someone whose favorite movie is "Star Wars" _____ Initials	8) Someone whose mother works _____ Initials	9) Someone who has made a piece of furniture _____ Initials
10) Someone who has a friend of a different race _____ Initials	11) Someone who wears "soft" contact lenses _____ Initials	12) Someone who knows how to make a "gourmet" meal _____ Initials

Chapter 5

What Is a Contract?

"I'll give you twenty dollars for that saw!"

"Done!"

"Only $1.50 a week for two quarts of milk delivered to my home? Sounds good. I'll take it."

"If you let me have all the peaches I can pick from your tree today, I'll mow your lawn every week for a month."

"You're on!"

What do those three short scenes have in common? They are all examples of contracts. A contract is a promise that is backed by the law.

The buyer promises to pay $20 for the saw and the seller agrees. Under the law, both the buyer and the seller must now carry out their agreement.

The dairy promises to deliver two quarts of milk a week to the customer's home. The customer

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accepts and must pay $1.50 a week in return for the service.

A teenager promises to mow the lawn every week for a month in return for fresh peaches. The neighbor agrees. The lawn must be mowed and the peaches must be given.

As you can see, a contract doesn't always have to be written down. There don't have to be lawyers around. There don't even have to be any witnesses. All a contract takes is two parties — that is, two people who make a special agreement.

Is any promise a contract? Can you make contracts even if you are under 18? What happens if you have second thoughts about a contract? What can you do if someone breaks a contract with you? These are some of the questions we will explore in this unit.

1. Agreements and the law

A contract is an agreement that usually involves money, goods, or services. Like the three examples above, most contracts in everyday life are simple. They don't involve a lot of money, and often nobody minds too much if the contract is broken.

A friend offers to swap a record album with you, and you agree. Later, the friend calls you and says he's changed his mind. Maybe you're a bit annoyed, but you just shrug your shoulders. You don't think of calling a lawyer.

Still, even simple contracts are backed by the law. And each party can insist that the contract be kept. For example:

You offer a neighbor $25 for his old CB radio. He accepts your offer. You give him $5 and go home to get the rest of the money. When you return, the man says he wants to sell the CB to someone else who will pay $50 for it.

The contract you have made with the neighbor protects you. Since he agreed to sell the CB to you, he cannot just change his mind. If he does, you have the right to take legal action.

Field Activity

Make a list of all of the agreements you observe or take part in during any one day. Write these headings on a piece of paper: Location (where the contract was made); Description; Parties (the people making the

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contract). For example: "Drugstore. Someone orders a milk shake (that is, promises to pay for it). Customer and drugstore clerk."

Look at the examples of contracts on page 59 and compare them with the agreements you have listed. Which of the agreements on your list do you think are legal contracts? Put a check mark against each of these.

2. What makes a promise a contract?

Do all promises form contracts? No — only some do. In both stories below, a promise is given. But one of the promises becomes a contract while the other does not. See if you can tell which is which.

Story No. 1

Larry is excited. "We're moving to the west coast," he tells his best friend Jerry. "I can't take a lot of stuff with me so I'll give you my record collection."

"I accept," Jerry says happily. He is sorry Larry is leaving but there are some great LPs in the collection.

"By the way," Larry adds, "do you think you can come by on Saturday and help me pack? You

can pick up the records then."

"Sure thing," Jerry answers. "And thanks, Larry."

Story No. 2

Larry is excited. "We're moving to the west coast," he tells his best friend Jerry. "I can't take a lot of stuff with me so I'll give you my record collection if you'll come over and help me pack on Saturday."

"I accept," Jerry says happily. "And thanks, Larry."

Which of the two stories do you think contains the contract? Why?

Story No. 2 is the one with the contract. In both stories, Larry offers Jerry his record collection and asks Jerry to help him pack. But only in No. 2 does Larry ask Jerry to help him pack *in return for* the records. When Jerry accepts this offer, there is a contract.

In most cases, a contract must contain three things:

- an offer;
- acceptance;
- consideration (something in return).

On the following pages we will find out more about each of these.

The offer

An offer is a promise to do something in exchange for something else.

"I'll give you my record collection," is not an offer. No exchange is involved. In Story No. 1, Larry simply makes a gift of his records. He asks Jerry to help him pack and Jerry agrees. But that is not a condition of the gift. Larry says he will give the records to Jerry whether he helps pack or not. So there is no legal obligation on either of them. Larry can change his mind and keep the records — even if Jerry helps him pack. Or Jerry can accept the records even if he does not help with the packing.

"I'll give you my record collection if you help me pack," is more than a promise. In Story No. 2, Larry promises to give Jerry the records only *in exchange for* Jerry's help. This is an offer. When Jerry accepts it, a contract is made. If Jerry helps him pack, Larry has a legal obligation to give him the record collection as promised.

Suppose Larry had said to Jerry, "Maybe I should give my record collection to someone in return for helping me pack. If I decide to do that, would you be interested?" Would that be an offer? No. If Jerry said "Yes," Larry could still change his mind and not make the offer. To create a contract, an

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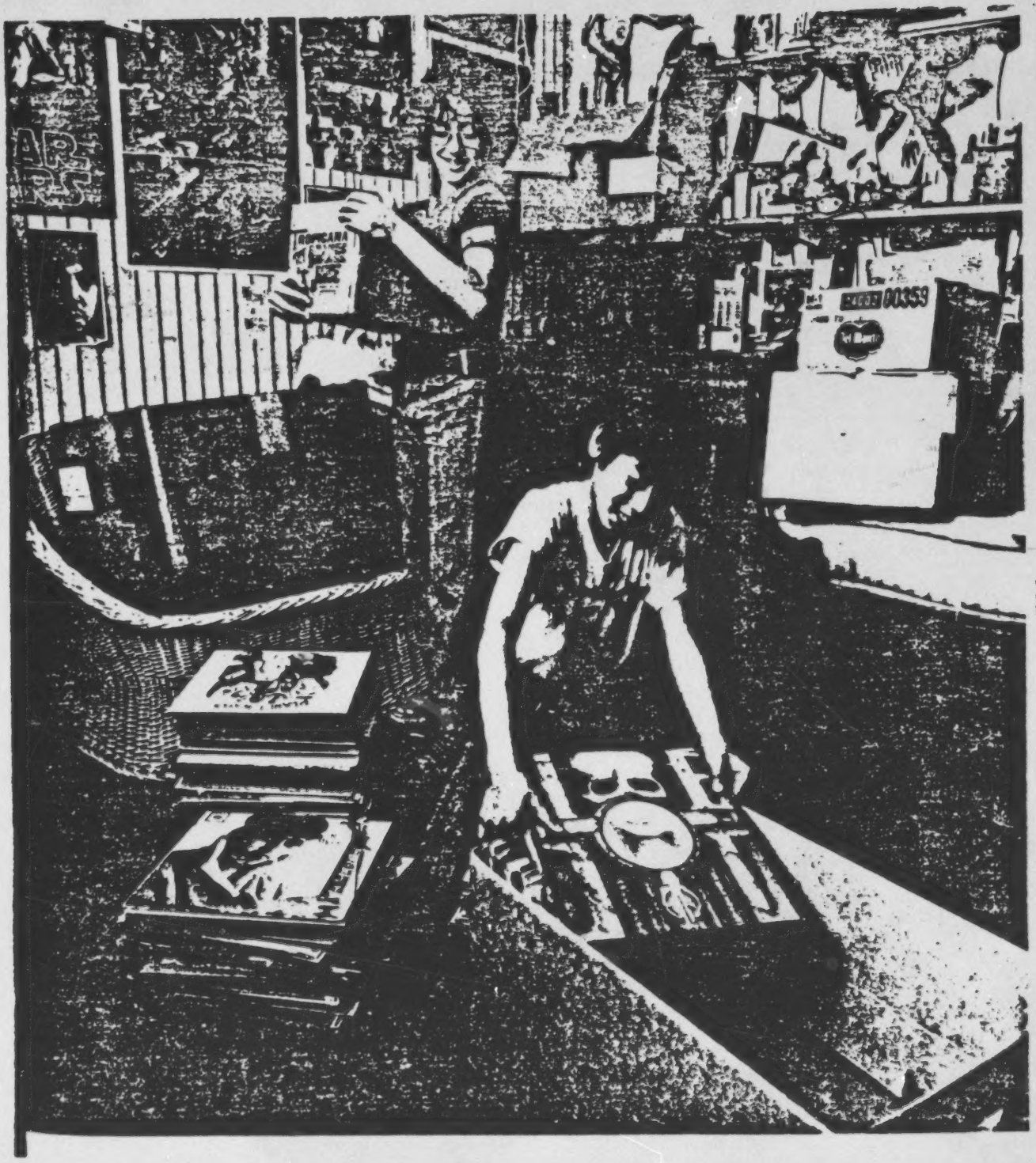

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offer must be definite.

Now suppose Sally offers to sell Karen her bike for $15 and Karen says she wants to think it over. Sally also thinks it over and phones Karen that evening.

"Sorry, Karen, but I've decided not to sell my bike after all."

"That's too bad!" says Karen. "I'd just make up my mind to buy it."

But Karen is too late. Sally has withdrawn her offer, and it no longer holds good. An offer can be withdrawn any time before it is accepted.

Suppose Karen had called first, accepting the offer. In that case, it would be too late for Sally to change her mind. Once an offer is accepted, it can no longer be withdrawn.

An offer may include a time limit. Sally could have said: "I'll sell you my bike for $15. But you have to let me know by eight o'clock this evening." If Karen doesn't call until five past eight, the offer no longer stands.

Your Turn

Look at each of the examples of offers given below. Decide which of these offers could form a contract if accepted and which could not.

1. Mr. Jones says to Mr. Brown, "I will sell you all the tools in my garage for $200."
2. Janice says to Lois, "I've been thinking about selling my skis. If I decide to sell them for $25, would you be interested in buying them?
3. Marilyn says to David, "I'm going to give you my old geometry book. Will you take it?"
4. Mrs. Arliss says to Lois, "I'll pay you $2 an hour to weed my garden."

Look again at each of the offers which could *not* form a contract if accepted. What changes would turn them into contractual offers?

The acceptance

When there is an offer, it must be accepted as is to make a contract. In other words, the offer must be accepted on all its terms. For example:

Mary Ellen receives a letter in the mail. The letter reads:

I will sell you my goat for $30. Let me know if you wish to buy it.

Mary Ellen decides to buy the goat and writes immediately to say so. She accepts the offer as is and a contract is made. The owner must sell the goat for $30 and Mary Ellen must buy it for that amount.

Suppose Mary Ellen had answered the letter differently, like this:

I like the goat and will pay you $30 but I want a month's feed thrown in too for that price. Enclosed is my check for $30.

Would there be a contract? No, because now Mary Ellen does *not* accept the offer as is. An offer cannot be accepted in part. It must be accepted exactly as is or else it is rejected.

Mary Ellen is making what is called a "counter-offer." This creates a new contract situation, one in which Mary Ellen makes the offer. She is offering $30 for the goat and a month's worth of feed. It is now up to the owner to decide whether to accept *her* offer.

Meeting all conditions

An offer may contain various conditions. It may say how soon an answer must be given, or how soon payment must be made. A person accepting the offer must also accept all of these conditions, or else the offer is rejected. For example:

Suppose the owner of the goat had said, "If you wish to accept my offer, you must be at my farm in person at 3:00 p.m. on Tuesday, November 14th with $30 in cash." Mary Ellen would have had to follow all of these terms. If not, she would have rejected the offer.

However, suppose the goat owner had simply asked Mary Ellen to let him know by return mail. In that case, she could probably reply by any equally quick (or quicker) means. It would probably be all right for her to telephone her acceptance or to go directly to the goat owner's home.

Your Turn

Look at each of the examples of acceptances given below. Decide which of these would create a contract and which would not.

1. Janice sends a telegram which reads, "As you requested, I am cabling my acceptance of your offer. I agree to pay $75 for your freezer."
2. Ms. Smith offers to sell Mr. Willis an interest in her land if he accepts in person at her office by 10:00 a.m. Thursday. Instead, Mr. Willis mails a letter of acceptance late Wednesday evening.
3. Louise says to Anna, "Yes, I agree to help you with your math in return for a dinner at 'Le Gourmet' — but I wonder if you'd consider throwing in that brown dress you don't wear anymore, too?"
4. Mrs. Wandaman asks Mr. Jones to let her know by return mail whether he accepts her offer to sell her sofa. Mr. Jones sends a messenger with an acceptance

and a check as soon as the offer is received.

Look again at those acceptances which do not lead to a contract. Why not? What changes would make them lead to a contract?

The consideration

We have seen that an offer is a promise to do something in exchange for something else. This "something else" is known as *consideration*. After an offer is accepted, consideration must be given or there is no contract.

Consideration may be money, goods, work, or some other action. But the person accepting the offer must, now or later, give or do *something* of value. Otherwise the person making the offer does not legally have to keep his or her promise.

Some examples will make this clear. When Mary Ellen accepted the offer of a goat, the consideration was money—$30 which she paid later. When Jerry accepted Larry's offer of the record collection, the consideration was work—helping Larry to pack on the following Saturday.

Here's another example. Mrs. James says to her 16-year-old son, "You are old enough to have a driver's license. But I'd feel happier if you didn't drive until you are older. I will buy you a car when you are 21 if you don't drive until that time." Her son accepts and does not drive for five years. Is his mother legally bound to give him a car? Is there a contract?

Yes. The consideration is the son's action of *not* driving. This is something of value to his mother. It is also something he can choose not to give if he does not wish to.

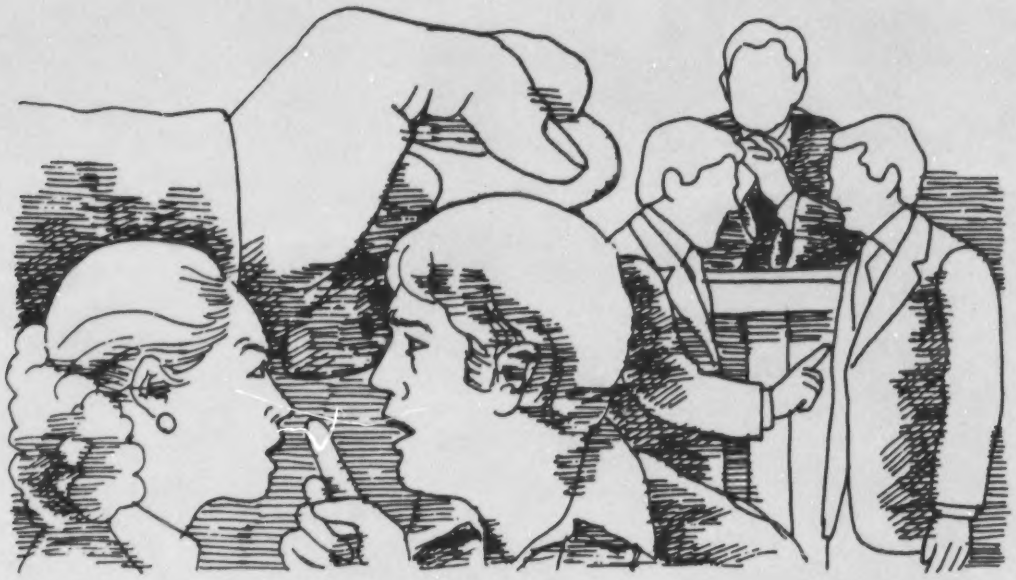
The person accepting the offer must be able to choose whether or not to give the consideration. If there's no choice, there's no contract. For example:

Suppose Mrs. James says, "Son, you are now 16 years old. Because of the help you've given me over the years with the other children, I'm going to give you a car."

Mrs. James would be offering her son a gift in return for something he had already done. There is nothing now he can choose to give or not give. So there is no legal contract.

Now suppose the person to whom the promise is made has to give the consideration anyway. Again, there is no choice and no contract. For example:

Suppose Mrs. James puts her offer a little differently. She says, "Son, if you obey the



traffic rules and don't get any tickets until you are 21, I will buy you a new car on your 21st birthday."

In this case, Mrs. James is asking for something her son already has to do under the law. With or without her promise, he must obey traffic rules, so Mrs. James would *not* be legally obligated to buy him a car.

Your Turn

Here are some examples of offers. Look at the consideration involved in each. On the basis of what you have just read, decide which offers could make a legal contract and which could not.

1. Don says to Anna, "I will pay you $3 if you will take my car to the car wash before five this afternoon." Anna agrees.

2. Mrs. Williams says to Lois, "Because you have such a nice voice, I promise you will be the one to sing a solo at graduation."

3. Mr. Grant says to his daughter, "If you promise not to drink alcohol until you are legally of age, I will send you on a trip to Europe for your 21st birthday."

4. Mrs. Moore says to Lewis, "You've always done a good job on the lawn, so if you mow it for me before 3:00 p.m. today I'll give you $5."

Look again at those examples which have the wrong kind of consideration for a contract. What changes would make them the right kind?

3.
Is there a contract?

Each of the following is an actual contract case. Read each to decide whether you think a legal contract does or does not exist. Remember, a contract must contain:

1. a definite offer;
2. unconditional acceptance;
3. the right kind of consideration.

Scott v. People's Monthly

People's Monthly, a magazine, announced a "Word Building Contest." The contest offered a first prize of $1,000 to the person who created the largest list of words from the letters in "determination."

A list of rules went with the contest offer. Contestants could not use certain kinds of words, such as abbreviations.

Mrs. Scott sent in the longest list of words. Yet she did not win the contest or the $1,000 prize. She took *People's Monthly* to court. She argued that she created the longest list and was therefore entitled to the first prize.

People's Monthly agreed Mrs. Scott's list was longest. However, it pointed out that some of her words fell within the word types prohibited by contest rules. It therefore argued that she was not entitled to the first prize.

Your Turn

1. Do you think a contract exists in this case? Why?
2. If you were deciding the case, would you decide in favor of Mrs. Scott or *People's Monthly*? Why?

Hamer v. Sidway

A wealthy man promised to pay his nephew $5,000 if he did not smoke or drink until he was 21. The nephew agreed. Although he was legally entitled to smoke and drink, he did not do so until he was 21. Then he asked his uncle for the $5,000 promised. The uncle refused to pay. The nephew sued.

The uncle argued that his nephew had not exchanged anything of value in return for the promise. In fact, he claimed that the nephew had actually gained a benefit by not smoking or drinking. That meant there was no consideration and therefore no contract.

The nephew disagreed. He argued that he *had* given up something of value in return for the promise of $5,000. This "something" was his legal right to smoke and drink.

Your Turn

Do you think a contract exists? If you were a judge, how would you rule?

Your teacher can tell you the decisions in these cases. They are on page 24 of the Teaching Guide.

Another look

Now that you know more about what makes a contract, look at the list of agreements you were asked to make on page 60. Check your examples carefully. Which of them actually include offer, acceptance, and consideration? Which do not? Strike out those agreements which you do not consider to be legal contracts.

4. Written contracts

All contracts *may* be put in writing, but most are legal even if they are not written down. In our daily lives, contracts are usually spoken. A pizza parlor would lose time and business if it asked its customers to put their orders in writing.

However, certain kinds of contracts *must* be in writing. As we will see, there are good reasons for this.

Before the late 1600's there were no laws in England or the American colonies requiring written contracts. So people could claim that they were parties to contracts which did not exist, and there was often no way to prove them wrong. These claims could involve large amounts of money or land. They could cause a lot of trouble to many people.

In 1677 the English Parliament passed a law known as the Statute of Frauds. This statute is the basis of many of our state laws today. Under these laws, no legal action can be taken on certain contracts unless the parties have signed a written agreement.

What kinds of contracts must be in writing? Usually, those that involve large amounts of money or goods. For example, in most states a contract must be in writing if it involves:

- the sale of goods worth more than a certain amount (usually from $50 to $500, depending on the state); or
- the sale of real estate.

In addition, contracts with certain complicated terms must be in writing. These usually include contracts which:

- cannot be completed in less than one year;
- promise to pay the debt of another person.

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What kind of contract is needed?

Read the stories below and decide in each case whether a spoken or written contract is best. Keep in mind that contracts which fall under the Statute of Frauds must be in writing. In the other cases, decide for yourself which kind of contract is more convenient.

1. Dave offers to sell his motor bike to Jim for $100. Dave says the bike is in excellent condition and just needs a tune-up. Jim accepts the offer on the strength of Dave's assurance that the motor bike really is in excellent condition.

2. Mr. and Mrs. Novak contract with a landscape architect, Mr. Davidson, to turn their backyard into a flower garden. They agree to pay him for all the materials he uses plus a fee of $2400. Davidson explains that because of the changing seasons, he will have to plant the different flowers over a period of time. He estimates that the entire landscaping work will take about 15 months.

3. Juan has wanted a purebred German Shepherd for a long time. He sees an ad in the paper offering pure German Shepherd puppies for sale at $30 each. He goes to look at the puppies and finds one he wants to buy. He offers the owner, Roger, $25 for the puppy. Roger accepts the offer.

4. Joyce wants to buy a car from a neighbor. She doesn't have enough cash and wants him to let her pay the $500 at the rate of $60 per month. The neighbor is willing, but wants her father or mother to agree to pay off the car if Joyce fails to do so. Joyce's mother says she will make that agreement.

Action Project

As a class activity, make a list of the situations which must be covered by a written contract. Add any other situations which you think *should* be in writing. Then divide into groups. Have each group choose one of the situations and work out a specific contract. To do this, group members should assume the roles of various parties to the contract. The group should then attempt to agree upon and write a clear, foolproof contract.

As a guide, make sure that each contract includes:

- the names of the contracting parties;
- the purpose of the contract;
- the consideration;
- the date of agreement;
- signatures of all parties.

Civil Justice, Living Law Series, New York: Scholastic Book Services and Constitutional Rights Foundation, 1978, Ch. 5, pp. 59-71.

Course and Grade Level: Tenth to Twelfth Grades
Business Law, Law, Social Studies

Topic: CREDIT AND LOANS

Topical Question: What is the process for obtaining credit and/or loans and what are the obligations involved?

Time Required: Four fifty-minute class periods

Resources:

Materials: Arbetman, Lee P., Edward T. McMahon and Edward L. O'Brien, Street Law, Second Edition, St. Paul: West Publishing Co., 1980; Student Edition, Chapter 3, pp. 140-156; Teacher Manual, Chapter 3, pp. 123-131 and Special Projects, pp. 137-142.

Hall, Betty J., Utah Survival, New York: Holt, Rinehart and Winston, 1979, pp. 100-120. (Copy included)

Practical Law in Utah, Salt Lake City: Utah State Office of Education, 1979, pp. 25-27. (Copy included)

Video tape, Consumer Skills - Buying on Credit, 13 min., grades 7-12. (Available from some district media centers.)

* 16 mm. film, To Your Credit, 15 min., 1978.

* Pamphlets: "The Story of Consumer Credit," Federal Reserve Bank of New York, 1980, 23 pages. "What Truth in Lending Means to You."

People: Local banker

Credit counseling agency representative

Speakers Bureau, Salt Lake City Branch, Federal Reserve Bank of San Francisco. Direct inquiries to: Manager Financial Services Dept.
Salt Lake City Branch
Federal Reserve Bank of San Francisco
P.O. Box 30780
Salt Lake City, Utah 84130
Phone: 355-3131

*Available from: Financial Services Department
Salt Lake City Branch
Federal Reserve Bank of San Francisco
P.O. Box 30780
Salt Lake City, Utah 84130
Phone: 355-3131

Content: This lesson will clarify for students the processes for obtaining credit and the obligations involved.

Objectives: At the end of the lesson, students will be able to:

1. Define what is meant by "credit" and explain the types of credit available.
2. Determine who should use credit.
3. List several advantages and disadvantages of credit purchases.
4. Explain the cost of credit, including interest rates and other finance charges.
5. Outline the steps involved in obtaining credit.
6. Know what procedures are available if you are denied credit.
7. Analyze the terms of a contract to determine if there are violations of the Truth in Lending Act.
8. Analyze several examples of credit application forms to see if the students understand the Equal Credit Opportunity Act.

Procedure:

1. Using the text, Street Law, introduce the subject of credit by discussing the different types of credit available:

   a. Unsecured (credit cards and store charge accounts).
   b. Secured (home mortgages).

2. View the film, To Your Credit, or video tape, Consumer Skills - Buying on Credit. Discuss.

3. Ask where credit is available in your community, why people use credit, and who should use credit.

   a. Do Problem 21, pp. 145-6 in the Student Edition of Street Law. See Teacher's Manual, pp. 126-127 for answer.
   b. Invite a local banker to class to discuss the topic of credit cards. (See Special Project 8, p. 139 of Teacher's Manual.)

4. Discuss the cost of credit, including interest rates and other finance charges. (See Street Law, pp. 146-148 of the Student Manual and p. 127 of the Teacher's Manual. Also Practical Law in Utah, pp. 25-27. Copy included.)
5. Discuss the steps involved in obtaining credit.

   a. What does the creditor need to know about the consumer?

      (1) Discuss the three C's of credit: "capacity," "character," and "collateral."
      (2) What questions may creditors not ask of applicants?

b. If establishing credit for the first time, see Utah Survival, p. 102 for ways to build a good

c. What steps are available to the consumer if denied credit? (Equal Credit Opportunity Act, Fair Credit Reporting Act.)

6. Discuss the Truth in Lending Act.

a. The Utah counterpart is the Uniform Consumer Credit Code (U.C.C.C.). (See Practical Law in Utah, pp. 25-26. Copy included.)
b. Have students carefully read a copy of a contract and analyze all portions thereof. (Example on p. 148 of Street Law, Student Edition. Copy included.)

7. To see if students understand the Equal Credit Opportunity Act, have available several examples of credit application forms to be read and discussed. (Example on p. 151 of Street Law, Student Edition Copy included. Other examples are also included.)
8. Discuss methods used by creditors to collect money from consumers who are unable or unwilling to pay their debts. Also discuss the Fair Debt Practices Act of 1978 (See pp. 153-155 of Street Law Student Edition.)

Evaluation: Students will demonstrate their understanding of the topic of credit by analyzing and filling out samples of contracts and credit applications.

Teacher Comments: A vocabulary list of terms associated with credit and loans has been included for your use. Also, in addition to examples found in Street Law, several local application forms for credit cards, bank cards, etc. have been included and may be used as an assignment.

FIGURE 11 Credit Card Application

Applicant's Information

Please read special instructions*

FIRST NAME	MIDDLE NAME	LAST NAME		BANK USE ONLY
STREET ADDRESS	CITY	STATE	ZIP	Cr ____ NO CDS ____
SOCIAL SECURITY NUMBER	HOME PHONE NUMBER [ ]	APPLICANT S AGE	NO OF DEPENDENTS	SOURCE ____
PRESENT ADDRESS YRS ____ MOS ____	HOME W RELATIVES ____ BUYING ____ RENTING ____ OWN ____	IF BUYING OWN VALUE ____ BALANCE ____		OR ____ BANK AND BRANCH
TO WHOM DO YOU PAY RENT MORTGAGE	ADDRESS		MONTHLY PAYMENT	
FORMER ADDRESS	CITY	STATE	ZIP	FORMER ADDRESS YRS ____ MOS ____
NAME OF NEAREST RELATIVE (not living with you)	ADDRESS		RELATIONSHIP	FULL SIGNATURE
EMPLOYER	POSITION			HOW LONG YRS ____ MOS ____
BUSINESS ADDRESS	CITY	STATE	ZIP	BUSINESS PHONE NUMBER [ ]
PREVIOUS EMPLOYER	POSITION	ADDRESS		HOW LONG YRS ____ MOS ____
GROSS MONTHLY INCOME	AMOUNT AND SOURCE OF ADDITIONAL INCOME (See special instructions)*			IF OBLIGATED TO PAY ALIMONY CHILD SUPPORT LIST MONTHLY AMOUNT
IF ALIMONY CHILD SUPPORT	NAME AND ADDRESS OF PAYER			
BANK AND BRANCH	CHECKING ACCT NO	SAVINGS ACCT NO	LOAN ACCT NO	
BANK AND BRANCH	CHECKING ACCT NO	SAVINGS ACCT NO	LOAN ACCT NO	
AUTO MAKE / YEAR	FINANCED BY ADDRESS		PRESENT BALANCE	MO PAYMENT
CREDITORS	ADDRESS	ACCT NO		
TOTAL OF ALL DEBTS, AND MONTHLY PAYMENTS (See special instructions)* ▶				

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FIGURE 13 Retail Installment Contract

Seller's Name: Lowell's Department Store, Pittsburgh, Pennsylvania

Contract # 3284

RETAIL INSTALLMENT CONTRACT AND SECURITY AGREEMENT

The undersigned (herein called Purchaser, whether one or more) purchases from Lowell's Dept Store (seller) and grants to Lowell's Dept Store a security interest in, subject to the terms and conditions hereof, the following described property.

QUANTITY	DESCRIPTION	AMOUNT	
1	Refrigerator	300	00
Description of Trade-in:			
	Sales Tax	15	00
	Total	315	00

PURCHASER'S NAME Mr. Jean Jones
PURCHASER'S ADDRESS 74 Woods Place
CITY Pittsburgh STATE Pa ZIP 15216

1. CASH PRICE	$ 315.00	
2. LESS: CASH DOWN PAYMENT	$ 50.00	
3. TRADE-IN		
4. TOTAL DOWN PAYMENT		$ 50.00
5. UNPAID BALANCE OF CASH PRICE		$ 265.00
6. OTHER CHARGES: Service Charge		$ 8.00
		$
7. AMOUNT FINANCED		$ 273.00
8. FINANCE CHARGE		$ 49.14
9. TOTAL OF PAYMENTS		$
10. DEFERRED PAYMENT PRICE (1+6+8)		$ 372.14
11. ANNUAL PERCENTAGE RATE		18

Insurance Agreement

The purchaser of insurance coverage is voluntary and not required for credit. (Type of Ins.) insurance coverage is available at a cost of $ 17.00 for the terms of credit.

I desire insurance coverage

Signed _____ Date _____

I do not desire insurance coverage

Signed _____ Date _____

Purchaser hereby agrees to pay to Lowell's Department Store at their offices shown above the "TOTAL OF PAYMENTS" shown above in 12 monthly installments of $ 26.45 (final payment to be $ 26.85) the first installment being payable March 5, 1979, and all subsequent installments on the same day of each month until paid in full. The finance charge applies from (Date) Feb. 5, 1978

Signed _____

Notice to Buyer: You are entitled to a copy of the contract you sign. You have the right to pay in advance the unpaid balance of this contract and obtain a partial refund of the finance charge based on the "Actuarial Method."

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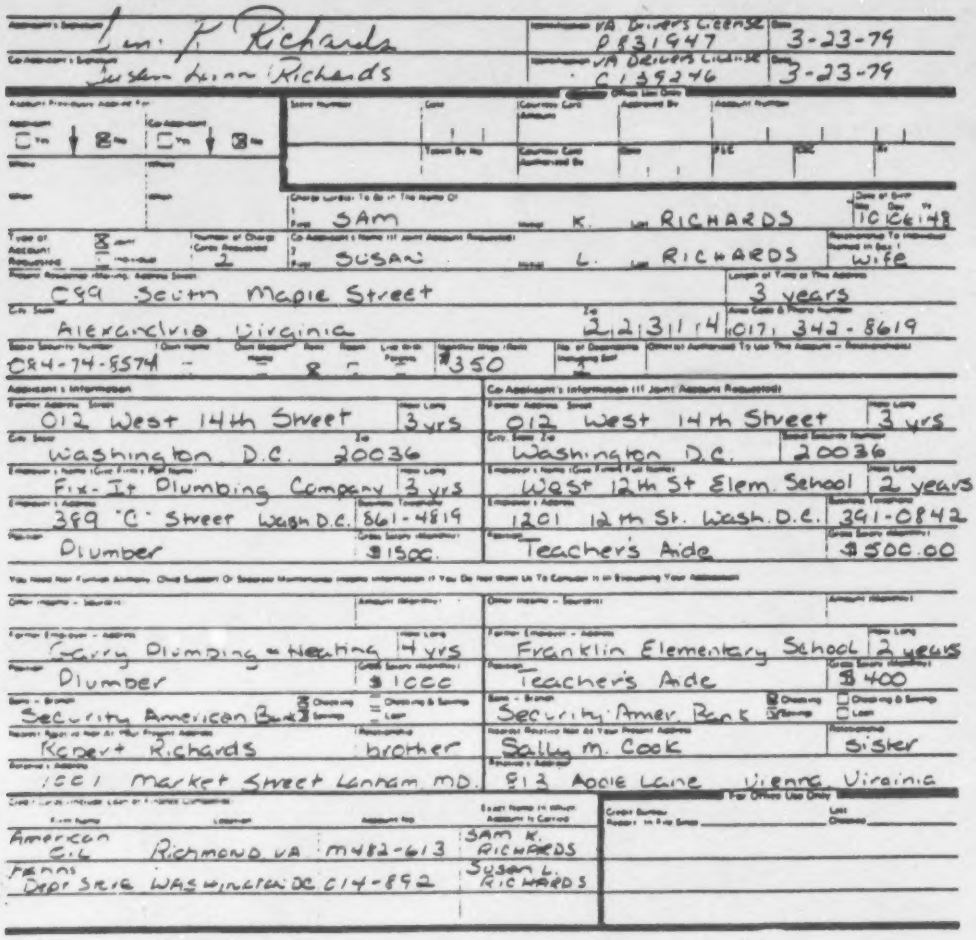
FIGURE 14 Charge Account Application



Sam K. Richards — VA Drivers License P831947 — 3-23-79
Susan Lynn Richards — VA Drivers License C139246 — 3-23-79

Charge Letters To Be In The Name Of: First SAM Middle K. Last RICHARDS — Date of Birth 10 26 48
Co-Applicant's Name (If Joint Account Requested): First SUSAN Middle L. Last RICHARDS — Relationship To Individual Named In Box 1: Wife
Present Residence Address: 899 South Maple Street — Length of Time at This Address: 3 years
City: Alexandria State: Virginia Zip: 22311-4 — Area Code & Phone Number: (017) 342-8619
Social Security Number: 284-74-8574 — Net Monthly Income: $350 — Number of Dependents Including Self: 4
Other Income Not Authorized To Use This Account — Recommended:

Applicant's Information

Former Address: 012 West 14th Street — How Long: 3yrs
City: Washington D.C. Zip: 20036
Present Employer's Name: Fix-It Plumbing Company — How Long: 3 yrs
Employer's Address: 389 "C" Street Wash D.C. — Business Telephone: 861-4819
Position: Plumber — Gross Salary (Monthly): $1500.
Other Income - Source: — Amount (Monthly):
Former Employer - Address: Curry Plumbing & Heating — How Long: 4 yrs
Position: Plumber — Gross Salary (Monthly): $1000
Bank - Branch: Security American Bank — Checking: ☒ Savings: ☐ Checking & Savings: ☐ Loan: ☐
Nearest Relative Not At Your Present Address: Robert Richards — Relationship: brother
Relative's Address: 1001 Market Street Lanham MD

Co-Applicant's Information (If Joint Account Requested)

Former Address: 012 West 14th Street — How Long: 3 yrs
City: Washington D.C. Zip: 20036
Present Employer's Name: West 12th St Elem. School — How Long: 2 years
Employer's Address: 1201 12th St. Wash. D.C. — Business Telephone: 391-0842
Position: Teacher's Aide — Gross Salary (Monthly): $500.00
Other Income - Source: — Amount (Monthly):
Former Employer - Address: Franklin Elementary School — How Long: 2 years
Position: Teacher's Aide — Gross Salary (Monthly): $400
Bank - Branch: Security Amer. Bank — Checking: ☒ Savings: ☐ Checking & Savings: ☐ Loan: ☐
Nearest Relative Not At Your Present Address: Sally M. Cook — Relationship: Sister
Relative's Address: 913 Addie Lane Vienna, Virginia

Credit Card(s) Now Held In Applicant's Name

Type	Issued By	Account No.	Exact Name As It Is To Appear On Account
American Express	Richmond VA	M482-613	Sam K. Richards
Penns Department Store	Washington DC	C14-892	Susan L. Richards

For Credit Bureau Use Only — Number — Initial — Last — Comments

Arbetman, Lee P., Edward T. McMahon and Edward L. O'Brien, Street Law, Second Edition, St. Paul: West Publishing Co., 1980; Student Edition, Chapter 3, pp. 142, 148 and 151.

15. LOANS AND CREDIT

The first thing to know about Loans and Credit is some of the vocabulary used. The following is a list of terms and their definitions. All of the definitions are related to the field of Loans and Credit.

Annual Percentage Rate—The true interest percentage charged on a loan.

Balance Due—The amount that you still have to pay on a loan, plus the interest to date.

Borrower—The person who borrows the money.

Collateral—Property owned by you that is signed over to insure the repayment of a loan. If you do not pay your loan off, the lender keeps your property.

Contract—A legal agreement between two or more people, enforceable by law.

Credit—Buying things and paying later, or borrowing money and repaying later.

Credit Charge—Includes interest and other charges involved in a credit transaction, such as the cost of insurance, taxes, bookkeeping, and other items.

Creditor or Lender—The person, store, bank, credit union, or other institution that lends money or sells goods or services "on time."

Installment—A payment on your loan.

Installment Contract—A written legal agreement that states you will pay the loan. The contract includes the due dates of payments, the amount of interest charged, the name(s) of person(s) borrowing the money, and what will happen if you fail to make the payments. It is signed by the borrower(s).

Interest—The amount of money paid by the borrower for the use of the money borrowed.

Loan Insurance—Should the borrower die before the loan is paid in full, this insurance policy will pay the remaining balance.

Prime Rate—The lowest interest rate given to the bank's most creditworthy customers (generally commercial customers).

Principal—The sum of money that is borrowed.

Promissory Note—A written agreement between two or more people whereby a certain sum of money is borrowed for a given length of time. At the end of the time, you will pay back the amount of money borrowed plus the interest due. (Also known as a Loan Note.)

Prorated—A term used by banks and other lending institutions. It means that the amount of interest you are charged for a loan will be distributed over a given period of time.

Secured Loan—A loan in which the borrower signs over collateral. If the borrower doesn't pay back the borrowed money, the lender keeps the collateral or "security."

SURVIVAL Holt, Rinehart and Winston, Publishers

Establishing Credit

In order to borrow money you must be at least 18 years old. Even with a co-signer it would be very difficult to get a loan if you were younger. You must also have a good credit rating.

How can a person obtain a credit rating if he or she has never "charged" anything before? If you have no references to say you always pay your bills when they are due, there are several ways to build a good reference.

1. Buy something on a lay-away plan. You promise that on a certain date every month you will make a payment until the item is paid for. You cannot take the merchandise until you have finished paying for it, so the store will either end up with the merchandise or your money. Be sure to go in every month as you have promised. See the same person if possible. That person can then state that you will keep your word and pay your bills.

2. Try to establish credit in small stores, such as clothing or jewelry stores. Speak to the manager and ask if you can pay half the cost of the merchandise immediately and finish paying for it on your next payday (lay-away plan). The next time you purchase something in the store, ask if you can take the merchandise on credit.

3. If you own a car, always try to go to the same service station to buy your gas and have your car serviced. You will need to pay cash. After you have been a good cash customer for several months and they know you, ask to "charge" a tire until next payday.

Remember, always pay your bill when you have promised. To be a good credit risk, you must never break your promise to pay your bill.

The following chart is based on 1% interest per month on the unpaid balance or an Annual Percentage Rate of 12%.

INSTALLMENT PAYMENT CHART

AMOUNT OF LOAN

NO. OF MONTHS	$100	$200	$300	$400	$500	$600	$700	$800	$900
1	100.999	201.998	302.997	403.996	504.995	605.994	706.993	807.992	908.991
2	50.751	101.502	152.253	203.004	253.755	304.506	355.257	406.008	456.759
3	34.002	68.004	102.006	136.008	170.010	204.012	238.014	272.016	306.018
4	25.628	51.256	76.884	102.512	128.140	153.768	179.396	205.024	230.652
5	20.604	41.208	61.812	82.416	103.020	123.624	144.228	164.832	185.436
6	17.255	34.510	51.765	69.020	86.275	103.530	120.785	138.040	155.296
7	14.863	29.726	44.589	59.452	74.315	89.178	104.041	118.904	133.767
8	13.069	26.138	39.207	52.276	65.345	78.414	91.483	104.552	117.621
9	11.674	23.348	35.022	46.696	58.370	70.044	81.718	93.392	105.066
10	10.558	21.116	31.674	42.232	52.790	63.348	73.906	84.464	95.022
11	9.645	19.291	28.936	38.582	48.227	57.872	67.518	77.163	86.809
12	8.885	17.770	26.655	35.540	44.425	53.309	62.194	71.079	79.964
13	8.242	16.483	24.725	32.966	41.208	49.449	57.691	65.932	74.174
14	7.690	15.380	23.070	30.760	38.451	46.141	53.831	61.521	69.211
15	7.212	14.425	21.637	28.850	36.062	43.274	50.487	57.699	64.912
16	6.796	13.589	20.384	27.178	33.973	40.767	47.562	54.356	61.151
17	6.426	12.852	19.277	25.703	32.129	38.555	44.981	51.406	57.832
18	6.098	12.196	18.295	24.393	30.491	36.589	42.687	48.786	54.884
19	5.806	11.610	17.416	23.221	29.026	34.831	40.636	46.442	52.247
20	5.542	11.083	16.625	22.166	27.708	33.249	38.791	44.332	49.874
21	5.303	10.606	15.909	21.212	26.516	31.819	37.122	42.425	47.728
22	5.086	10.173	15.259	20.346	25.432	30.518	35.605	40.691	45.778
23	4.889	9.777	14.666	19.554	24.443	29.332	34.220	39.109	43.997
24	4.707	9.415	14.122	18.829	23.537	28.244	32.951	37.658	42.366
25	4.541	9.081	13.622	18.163	22.704	27.244	31.785	36.326	40.866
26	4.387	8.774	13.161	17.548	21.935	26.321	30.708	35.096	39.482
27	4.245	8.489	12.734	16.978	21.223	25.468	29.712	33.957	38.201
28	4.112	8.225	12.337	16.450	20.562	24.674	28.787	32.899	37.012
29	3.990	7.979	11.969	15.958	19.948	23.937	27.927	31.916	35.906
30	3.875	7.750	11.624	15.499	19.374	23.249	27.124	30.998	34.873
31	3.768	7.535	11.303	15.070	18.838	22.606	26.373	30.141	33.908
32	3.667	7.334	11.001	14.668	18.336	22.003	25.670	29.337	33.004
33	3.573	7.145	10.718	14.291	17.864	21.436	25.009	28.582	32.154
34	3.484	6.968	10.452	13.936	17.420	20.904	24.388	27.872	31.356
35	3.400	6.801	10.201	13.602	17.002	20.402	23.803	27.203	30.604
36	3.321	6.643	9.964	13.286	16.607	19.928	23.250	26.571	29.893
37	3.247	6.494	9.740	12.987	16.234	19.481	22.728	25.974	29.221
38	3.176	6.352	9.528	12.704	15.881	19.057	22.233	25.409	28.585
39	3.109	6.218	9.328	12.437	15.546	18.655	21.764	24.874	27.983
40	3.046	6.091	9.137	12.182	15.228	18.274	21.319	24.365	27.410
41	2.985	5.970	8.955	11.940	14.926	17.911	20.896	23.881	26.866
42	2.928	5.855	8.783	11.710	14.638	17.566	20.493	23.421	26.348
43	2.873	5.745	8.618	11.491	14.364	17.236	20.109	22.982	25.854
44	2.820	5.641	8.461	11.282	14.102	16.922	19.743	22.563	25.384
45	2.771	5.541	8.312	11.082	13.853	16.623	19.394	22.164	24.935
46	2.723	5.446	8.168	10.891	13.614	16.337	19.060	21.782	24.505
47	2.677	5.354	8.031	10.708	13.386	16.063	18.740	21.417	24.094
48	2.633	5.267	7.900	10.534	13.167	15.800	18.434	21.067	23.701

Even though you are paying a fixed amount each month, that amount is being applied to your principal and interest in the same manner as the table on page 110. You pay a higher amount of interest in the first months because you owe more money at that time.

This fact often results in confusion when people pay off a loan early. They feel that if they pay off a one year loan in six months, they should receive half of the interest in a rebate. As we will see, this is not the case.

INSTALMENT LOAN APPLICATION

DATE _____ 19__ BR. NO ____

I WISH TO APPLY FOR A LOAN FOR THE PURPOSE OF _____ TOTAL COST $ _____

LESS MY INVESTMENT OF _____ (cash, trade-in, other) $ _____ LEAVES A LOAN NEED FOR $ _____ PAYABLE IN _____

EQUAL MONTHLY INSTALMENTS OF APPROXIMATELY $ _____ PER MONTH ON THE _____ DAY OF EACH MONTH.

GENERAL INFORMATION

APPLICANT'S FULL NAME	Social Security No.	Co-Applicant's Full Name	Social Security No.

Home Address / Zip Code	How Long There Yrs. Mos.	Dependents, Give Number and Ages No. | Ages.

Previous Home Address (If At Above Less Than 2 Yrs.)	How Long There Yrs. Mos.	Home Telephone No.	Your Birth Date

Name and Address of Nearest Relative NOT Living With Me	Relationship

Name and Address of Co-Applicant's Nearest Relative NOT Living With Me	Relationship

Name of Your Bank / Branch	Type of Account(s) ☐Checking ☐Savings	☐BAC No. _____ ☐Loan (Type) _____ ☐S.D. Box

Make and Model Year of All Automobiles Owned (If Any Financed, Show Details Below in Credit Information Block)

EMPLOYMENT AND INCOME

Employer's Name	Telephone No.	How Long There Yrs. Mos.	Mo. Take Home Pay $

Employer's Address	Position Held	Source Other Income	Other Income $

Co-Applicant's Employer	Telephone No.	How Long There Yrs. Mos.	Mo. Take Home Pay $

Co-Applicant's Employer's Address	Position Held	Source Other Income	Other Income $

Applicant's Previous Employer	Position Held	How Long There Yrs. Mos.	Total $

Previous Employer's Address

CREDIT INFORMATION

The following is a list of all obligations now owing to banks, companies and individuals	ADDRESS OR BRANCH	PRESENT BALANCE	MONTHLY PAYMENT	PAST DUE
☐Home Loan ☐Rent (Name of Landlord or Mortgage Holder)		$	$	
Other Home Mortgages				
Auto Loan				
	TOTALS	$	$	

Ever taken bankruptcy? Yes ☐ No ☐ If so, when? Year _____

Ever had mdse repossessed? Yes ☐ No ☐ If "yes" by whom _____

PLEASE DEPOSIT TO MY _____ ACCT. NO. _____ $ _____

ISSUE CASHIER'S CHECK TO _____ _____

APPLY TO LOAN NUMBER _____ _____

CASH RECEIVED _____ _____

_____ SIGNATURE TOTAL LOAN PROCEEDS $ _____

☐ Please charge payments to my checking account number _____ at _____ Br.

☐ I do not desire Automatic Payment Plan.

_____ SIGNATURE

_____ SIGNATURE

TPL 3 2-76

Hall, Betty J., Utah Survival, New York: Holt, Rinehart and Winston, 1979 pp. 100, 102, 112 and 116.

D. CREDIT

Consumers can obtain credit in several ways. Two common ways are (1) to receive credit from a seller of goods, or (2) to borrow money, pay the seller cash and then repay the borrowed money.

In Utah the Uniform Consumer Credit Code (the U.C.C.C.) is the law designed to insure that consumers are provided with all the facts and figures concerning terms of credit. The U.C.C.C. provisions are enforced by the Utah Department of Financial Institutions. The Utah law is patterned after a federal law called the Truth-in-Lending Act.

The U.C.C.C. places a limit on the amount of interest that a creditor (the one who loans the money) can charge a debtor (the one who owes the money). Most creditors charge 1 and 1/2% interest per month on the unpaid balance. This means that every month 1 and 1/2% is multiplied by the amount owed (debt) and added to the debt. Interest in the amount of 1 and 1/2% per month over a year adds up to 18% interest per year (1 and 1/2% x 12 months).

If a Utah creditor charges more interest than that allowed by the U.C.C.C., the creditor is guilty of "usury." The penalties for this can be a refund of interest payments or a fine or imprisonment for the creditor.

Because interest charges are computed by creditors upon the assumption that payments will be made on time, the U.C.C.C. allows creditors to charge a late payment penalty. This charge cannot be more than $9.00 or 5% of the late payment.

If a debt is paid before the required time, the debtor is entitled to a partial rebate of any interest he has paid in advance. That is, the creditor must return (rebate) to the debtor any interest that was charged for months that the debtor paid ahead of schedule. For example, if a debtor borrowed $1,000.00 for 18 months at 1 and 1/2% interest per year on the unpaid balance (18% per year), his written promise to repay the loan would probably show that he owes a total amount equal to $1,000.00 plus the amount of interest which he would have paid by the end of the 18th month. If the total amount is paid off in only 12 months, then the creditor must refund 6 months' worth of the interest that was computed when the loan or credit was calculated. The amount of the rebate in such type of loan is determined by a formula known and the "Rule of 78's."

Whenever anything is purchased on credit or a loan is obtained, the creditor must first give the debtor a written disclosure statement which must set forth, among other things: (1) the price of the goods or loan amount, (2) the amount of the down payment (or trade-in allowance), (3) the amount owing after down payment, (4) the finance charge (interest), (5) the total amount due (finance charge + cash price), (6) the number of payments due, and (7) when payments are due.

E. CREDIT CARDS

Most Utah stores either offer their own credit cards or accept one or more bank credit cards. Stores or banks that issue such cards must send out periodic statements, generally monthly, informing the consumer (1) how much is owed, (2) what was charged, (3) the finance charge, (4) the amount due, and (5) the date it is due. If the consumer disagress with the statement, he has 30 days to write the creditor and state his reasons for disagreement.

It is important to know that if a store allows purchases on credit, it costs more to do business because of the added expense of keeping records. This ordinarily affects the price of goods sold.

For example, if a customer purchased a $1,000.00 piano from Musico on credit, he would fill out a credit application. Musico would send the application to Ajax Finance for review. If Ajax accepts the application, Ajax will pay Musico the $1,000.00. The customer would then be sent a payment booklet from Ajax informing him that he owes Ajax Finance $1,000.00 plus interest.

If something is faulty with the paino and Musico refuses to correct the problem, under the U.C.C.C. Ajax would be subject to the claims of the customer against Musico. However, the liability of Ajax would not exceed the amount owing at the time of the claim.

F. DECEPTIVE SALES PRACTICES

The Utah Consumer Sales Practices Act (Sales Act) protects consumers from sellers that use deceptive sales practices. The Sales Act is enforced by the Utah Trade Commission and deals with three methods of deceptive acts sometimes used by sellers: (1) advertising, (2) person-to-person statements, and (3) written contracts.

1. Bait and Switch

Suppose Ripoff, Inc. advertises guitars for $25.00. If Ripoff, Inc. has only one guitar for $25.00, then the ad is deceptive because customers may be "baited" into the store by the ad and will then be "switched" to a higher priced guitar. In both cases the ad is technically true but is used to bait consumers - that is, get them into the store in order to try to sell a higher priced item.

2. Deceptive Pricing

Another example of a true yet deceptive ad is the ad which advertises that the manufacturer's suggested retail price for a guitar is $50.00 and that it is on sale for $25.00. This type of advertising is deceptive because it appears that the customer saved $25.00, whereas in reality Ripoff may never have sold the guitar at the manufacturer's suggested price and always sells it at $25.00

3. Phony Contests

If Ripoff, Inc. were to have a contest and announced that the winner would receive a $25.00 guitar for free, Ripoff might contact everyone who entered the contest and tell them all they had won. The catch is that to get the guitar they will have to buy 10 guitar lessons at $5.00 each.

Another variation of the phony contest is a notice that although the contestant didn't win the guitar, he has won a $10.00 discount on a $50.00 guitar. The $50.00 guitar turns out to be the $25.00 guitar marked up. In either case, Ripoff conducted the contest to get people's names and addresses in order to sell them something.

Practical Law in Utah, Salt Lake City: Utah State Office of Education, 1979, pp. 25-27.

CUSTOMER COPY

ZCMI DISCLOSURE STATEMENT AND AGREEMENT TO ACCOUNT TERMS

This is an agreement and disclosure statement between applicant as identified on the ZCMI credit application and ZCMI. The words "you" and "your" mean applicant. The words "we", "our" and "us" mean ZCMI. By your signature on the ZCMI credit application, or by your acceptance of goods or services from ZCMI under this agreement, you agree to be bound by all the terms of this agreement.

1. PROMISE TO PAY
Under this agreement, you may use any one or more of four different accounts offered by ZCMI: (a) Option plan, (b) Time Pay plan, (c) 90-day plan; (d) Club Plan. You promise to pay us for all goods or services purchased on any of these accounts, plus any finance charge or other amounts which may be due.

2. MONTHLY STATEMENT
Each month we will send you a statement showing any purchase made during that billing period on any one or more of your ZCMI accounts, payments you have made, and your new balance. Your statement will also show the minimum payment you must make for each account and the date your total minimum payment for all accounts is due.

3. PLANS DEFERRED
You may pay your account or accounts in full on or before the due date shown on your monthly statement, OR you may choose to budget your payments and pay installments according to the terms of the particular account.

Option Plan: There is no **FINANCE CHARGE** on purchases made during the billing period under the Option Plan if you pay in full by the due date shown on the statement. If not paid in full, finance charges on purchases on your option charge account start when we first bill them to you. In addition to the principal amount of your option account, you will pay a **FINANCE CHARGE** of 1 1/2 % on the average daily balance of unpaid purchases up to and including $1,000. This corresponds to an **ANNUAL PERCENTAGE RATE OF 18%**. If the outstanding balance of your option account is in excess of $1,000 a periodic charge of 1% will be charged against the average daily balance of the amount exceeding $1,000. This corresponds to an **ANNUAL PERCENTAGE RATE of 12%** on the amount in excess of $1,000.

Time Pay Plan: On our Time Pay Account you may have up to 24 months to pay. The minimum purchase must be $100 or more. You will pay a fixed amount each month of the principal amount owing but the minimum payment must be $10. The amount to be paid will be stated on each monthly statement you receive. The amount of each monthly payment may vary from month to month, depending upon the total finance charge assessed on the unpaid balance of your time pay account. If you are granted additional credit on your time pay account, any new amount will be added to any outstanding balance you may owe. Your fixed payment amount will be recalculated on you new balance. In addition to the principal amount to be paid, you will pay a **FINANCE CHARGE** of 1 1/2 % on the unpaid average daily balance. This corresponds to an **ANNUAL PERCENTAGE RATE OF 18%**.

90-Day Plan: On our 90-Day Account plan, specific types of merchandise may be paid for in three consecutive payments. No down payment need be made on a 90-day account, but the first two payments must be at least one-third (1/3) of the purchase price. No **FINANCE CHARGE** will be made if each of the three consecutive monthly payments are paid on or before the due date shown on your monthly statement. If payments are not made when due, a **FINANCE CHARGE** of 1 1/2 % will be made on the average daily balance of the amount due for that month, and added to the next month minimum payment. This corresponds to an **ANNUAL PERCENTAGE RATE of 18%**.

Club Plan: If you choose to budget your payments under our Club Plan, you may have up to 24 months in which to make fixed monthly payments but the minimum payment must be $10. The items purchased under the Club Plan must be for $100 or more. If each payment is made when due as shown on your monthly statement, no **FINANCE CHARGE** WILL BE MADE. If payments are not made when due, a **FINANCE CHARGE** of 1 1/2 % will be made on the average daily balance of amount due for that month, and added to the next month minimum payment. This corresponds to an **ANNUAL PERCENTAGE RATE of 18%**.

4. MINIMUM MONTHLY PAYMENTS
If you make purchases under the Option Plan, you may pay off in full each month or you may budget your repayment in monthly installments. If you budget repayment on your Option Account, you must pay at least 1/10th of your total unpaid balance or $10, whichever is greater. If your total unpaid balance is less than $10, you agree to pay that amount. The minimum monthly payment under both the Club Plan and Time Pay Plan is also $10.

5. MINIMUM FINANCE CHARGE
If the **FINANCE CHARGE** assessed against any one of your accounts is between $.01 (one cent) and $.50 (fifty cents), a minimum **FINANCE CHARGE** of $.50 (fifty cents) will be made.

6. CHANGE IN TERMS
By your signature on your application or by your acceptance of goods or services, you agree in writing that we may modify the terms and conditions of this agreement according to applicable law. You understand that these changes may include, but are not limited to, any change in the FINANCE CHARGE. Notice of these changes will be mailed to you at the address used by us for sending your monthly statement.

7. COLLECTIONS COSTS
If we are forced to take collection action, you agree to pay all court and collection fees, including reasonable attorneys' fees and costs of appeal.

8. DEFAULT
If you miss a payment or if you break any other promise you have made under this agreement, we may declare your entire balances on all accounts due and payable at once. We may also do this if you have made any misrepresentation in your application in applying for credit or if anything happens that indicates to us that you may be unable or unwilling to pay your account. We may also demand that you surrender your card to ZCMI.

9. RETURN CHECK CHARGE
If any check sent by you in payment for your account(s) is not honored, we will charge you a $5.00 returned check charge which will be charged to your account.

10. BILLING ERROR STATEMENT
You agree to let us know promptly if you have any questions about your monthly statement. On the reverse side of this Disclosure and Agreement is a **BILLING ERROR STATEMENT** which tells you what to do if you think there has been a mistake in your statement.

DETACH HERE AND RETAIN CUSTOMER COPY OF DISCLOSURE STATEMENT AND AGREEMENT FOR YOUR RECORDS.

ZCMI APPLICATION FOR CREDIT

FORM 370 REV. 7-80

ACCOUNT NUMBER ☐☐☐ ☐☐☐☐ ☐

DATE

STORE LOCATION ● DT ○ CM ○ OG ○ VF ○ UM ○ Cv ○ LH ○ PR ○ SC

SPECIAL INSTRUCTIONS:

BEGINNING LIMIT

NO. OF PLATES

APPROVED BY

IMPORTANT! READ THESE DIRECTIONS BEFORE COMPLETING THIS APPLICATION. YOU MAY APPLY FOR THIS ACCOUNT IN YOUR NAME ALONE, OR WITH ANY OTHER PERSON. IF YOU ARE APPLYING JOINTLY, ONE SHOULD APPLY AS APPLICANT AND THE OTHER AS CO-APPLICANT. IF THERE IS A CO-APPLICANT, BOTH MUST SIGN THE APPLICATION. PLEASE CHECK TYPE OF ACCOUNT: ☐INDIVIDUAL ACCOUNT ☐JOINT ACCOUNT. NOTICE: YOU NEED NOT DISCLOSE INCOME DERIVED FROM ALIMONY, CHILD SUPPORT OR SEPARATE MAINTENANCE PAYMENTS UNLESS YOU WISH TO USE SUCH TO ESTABLISH YOUR CREDIT WORTHINESS. * SEE OTHER INCOME BELOW

INFORMATION REGARDING APPLICANT				INFORMATION REGARDING CO-APPLICANT			
FIRST NAME	LAST NAME			FIRST NAME	LAST NAME		
ADDRESS				ADDRESS			
CITY	STATE	ZIP CODE		CITY	STATE	ZIP CODE	
PREVIOUS ADDRESS				PREVIOUS ADDRESS			
EMPLOYER	EMPLOYER'S ADDRESS			EMPLOYER	EMPLOYER'S ADDRESS		
POSITION	HOW LONG	MONTH EARNINGS	BUSINESS PHONE	POSITION	HOW LONG	MONTH EARNINGS	BUSINESS PHONE
* SOURCE OF OTHER INCOME		MONTHLY AMOUNT		* SOURCE OF OTHER INCOME			MONTHLY AMOUNT
SOCIAL SECURITY NO		HOME PHONE		SOCIAL SECURITY NO			HOME PHONE
BUYING ☐ OWN ☐ RENT ☐ PARENT ☐	DATE OF BIRTH	NO. OF DEPENDENTS		BUYING ☐ OWN ☐ RENT ☐ PARENT ☐	DATE OF BIRTH		NO. OF DEPENDENTS

CREDIT REFERENCES: ACCOUNTS WITH RETAIL STORES, BANKS, & CREDIT UNIONS. EACH APPLICANT SHOULD COMPLETE CREDIT SECTION.

☐ VISA ☐ MASTERCARD	ACCT. NO.		☐ VISA ☐ MASTERCARD	ACCT. NO.	
BANK REF.	BRANCH		BANK REF.	BRANCH	
FIRM NAME	ACCOUNT NUMBER	MONTHLY PAYMENT	FIRM NAME	ACCOUNT NUMBER	MONTHLY PAYMENT
NAME AND COMPLETE ADDRESS OF NEAREST RELATIVE			RELATIONSHIP	AREA CODE - PHONE NUMBER	
STREET ADDRESS	CITY		STATE	ZIP CODE	
HAVE YOU EVER HAD A ZCMI ACCOUNT? YES ☐ NO ☐	IF YES ACCOUNT NAME			ACCOUNT NUMBER	
PRINT NAMES OF OTHERS WHO WILL USE ACCOUNT: 1. 2.			THE APPLICANT WAS REFERRED FOR A ZCMI ACCOUNT BY	ZCMI EMPLOYEE HOUSE NUMBER	STORE

I/WE GIVE THE ABOVE INFORMATION FOR THE PURPOSE OF OBTAINING CREDIT AND CERTIFY THAT IT IS TRUE AND COMPLETE. I/WE HAVE READ AND AGREE TO ABIDE BY ALL THE TERMS AND CONDITIONS OF THE DISCLOSURE AND AGREEMENT ON THE REVERSE SIDE. BY MY/OUR SIGNATURE(S) ON THIS APPLICATION I/WE ACKNOWLEDGE RECEIPT OF A COPY OF SAME DISCLOSURE AND AGREEMENT AS WELL AS NOTICE REGARDING BILLING ERRORS.

APPLICANT'S SIGNATURE _____ DATE _____ SIGNATURE OF CO-APPLICANT _____ DATE _____

DO NOT qualify for this plan.)

IN CASE OF ERRORS OR INQUIRIES ABOUT YOUR BILL

The Federal Truth In Lending Act requires prompt correction of billing mistakes.

1. If you want to preserve your rights under the Act, here's what to do if you think your bill is wrong or if you need more information about an item on your bill.
   a. Do not write on the bill. On a serparate sheet of paper write (you may telephone you inquiry but **doing so will not preserve your rights under the law**) the following:
      i. Your name and account number.
      ii. A description of the error and an explanation (to the extent you can explain) why you believe it is an error. If you need only more information, explain the item you are not sure about, and if you wish, ask for evidence of the charge such as a copy of the charge slip. Do not send in your copy of a sales slip or other document unless you have a duplicate copy for your records.
      iii. The dollar amount of the suspected error.
      iv. Any other information (such as your address) which you think will help ZCMI to identify you or the reason for your complaint of inquiry.
   b. Send your billing error notice to the address on your bill which is listed after the words "Direct Statement Inquiries To:". Mail it as soon as you can, but in any case early enough to reach ZCMI within 60 days after the bill was mailed to you.

2. ZCMI must acknowledge all letters pointing out possible errors within 30 days of receipt, unless the Store is able to correct your bill during that 30 days. Within 90 days after receiving your letter, ZCMI must either correct the error or explain why the Store believes the bill was correct. Once ZCMI has explained the bill, it has no further obligation to you even though you still believe that there is an error, except as provided in paragraph 5 below.

3. After ZCMI has been notified, neither the Store nor an attorney nor a collection agency may send you collection letters or take other collection action with respect to the amount in dispute; but periodic statements may be sent to you, and the disputed amount can be applied against your credit limit. You cannot be threatened with damage to your credit rating or sued for the amount in question, nor can the disputed amount be reported to a credit bureau or to other creditors as delinquent until ZCMI has answered your inquiry. **However, you remain obligated to pay the parts of your bill not in dispute.**

4. If it is determined that ZCMI has made a mistake on your bill, you will not have to pay any finance charges on any disputed amount. If it turns out that ZCMI has not made an error, you may have to pay finance charges on the amount in dispute, and you will have to make up any missed minimum or required payments on the disputed amount. Unless you have agreed that your bill was correct, ZCMI must send you a written notification of what you owe; and if it is determined that the Store did make a mistake in billing the disputed amount, you must be given the time to pay which you normally are given to pay undisputed amounts before any more finance charges or late payment charges on the disputed amount can be charged to you.

5. If the Store's explanation does not satisfy you and you notify **ZCMI in writing within 10 days** after you receive the explanation, that you still refuse to pay the disputed amount, ZCMI may report you to credit bureaus and other creditors and may pursue regular collection procedures. But, ZCMI must also report that you think you do not owe the money, and ZCMI must let you know to whom such reports were made. Once the matter has been settled between you and the Store, ZCMI must notify those to whom it reported you as delinquent of the subsequent resolution.

6. If ZCMI does not follow these rules, the Store is not allowed to collect the first $50.00 of a disputed amount and finance charges, even if the bill turns out to be correct.

ZCMI DISCLOSURE STATEMENT AND AGREEMENT TO ACCOUNT TERMS

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1. PROMISE TO PAY
Under this agreement, you may use any one or more of four different accounts offered by ZCMI: (a) Option plan; (b) Time Pay plan; (c) 90-day plan; (d) Club Plan. You promise to pay us for all goods or services purchased on any of these accounts, plus any finance charge or other amounts which may be due.

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5. MINIMUM FINANCE CHARGE
If the **FINANCE CHARGE** assessed against any one of your accounts is between $.01 (one cent) and $.50 (fifty cents), a minimum **FINANCE CHARGE** of $.50 (fifty cents) will be made.

6. CHANGE IN TERMS
By your signature on your application or by your acceptance of goods or services, you agree in writing that we may modify the terms and conditions of this agreement according to applicable law. You understand that these changes may include, but are not limited to, any change in the FINANCE CHARGE. Notice of these changes will be mailed to you at the address used by us for sending your monthly statement.

7. COLLECTIONS COSTS
If we are forced to take collection action, you agree to pay all court and collection fees, including reasonable attorneys' fees and costs of appeal.

8. DEFAULT
If you miss a payment or if you break any other promise you have made under this agreement, we may declare your entire balances on all accounts due and payable at once. We may also do this if you have made any misrepresentation in your application in applying for credit or if anything happens that indicates to us that you may be unable or unwilling to pay your account. We may also demand that you surrender your card to ZCMI.

9. RETURN CHECK CHARGE
If any check sent by you in payment for your account(s) is not honored, we will charge you a $5.00 returned check charge which will be charged to your account.

10. BILLING ERROR STATEMENT
You agree to let us know promptly if you have any questions about your monthly statement. Above this Disclosure and Agreement is a **BILLING ERROR STATEMENT**

BEST COPY AVAILABLE

BANKCARD APPLICATION

First Security Bank of Utah
(business name)

Type of Card	List below the number of cards required: Applicant	Co-Applicant	Selecting account relationship if any:
☐ VISA Credit Card			First Security VISA Credit Card Account No., _____
☐ Check Protection Plus			(checking account is required)
☐ VISA Banking Card			(checking account is required) First Security Checking Account No., _____
☐ VISA Banking Card/ Check Protection Plus			(checking account is required) Statement Savings Account No., _____
☐ VISA Credit Card/ Check Protection Plus			(checking account is required)

IMPORTANT! READ THESE DIRECTIONS BEFORE COMPLETING THIS APPLICATION
You may apply for this account in your name alone, or with any other person. If you are applying jointly, one should apply as applicant and the other as Co-applicant. If there is a co-applicant, both must sign the application.

NOTICE: You need not disclose income derived from alimony, child support, or separate maintenance payments unless you wish to use such to establish your credit worthiness. If you rely on income derived from alimony, child support, or separate maintenance payments, information about your spouse or former spouse may be required. (See "Other Income" below.)

INFORMATION REGARDING APPLICANT

First Name	Initial	Last Name		
Current Street Address		Apt. No.	Time at Address: Yrs.	Mos.
City	State		Zip	
Do you ☐ Rent ☐ Own ☐ Live with Parents Name and Address of Landlord or Mortgage Holder				
Previous Home Address 1	City	State	Time at Address	
Previous Home Address 2	City	State	Time at Address	
Date of Birth	Social Security No.	Home Phone No. ( )	No. of Dependents	
Name / Address of Nearest Relative, Not Living with You	Relationship	Phone		

INFORMATION REGARDING CO-APPLICANT

First Name	Initial	Last Name		
Current Street Address		Apt. No.	Time at Address: Yrs.	Mos.
City	State		Zip	
Do you ☐ Rent ☐ Own ☐ Live with Parents Name and Address of Landlord or Mortgage Holder				
Previous Home Address 1	City	State	Time at Address	
Previous Home Address 2	City	State	Time at Address	
Date of Birth	Social Security No.	Home Phone No. ( )	No. of Dependents	
Name / Address of Nearest Relative, Not Living with You	Relationship	Phone		

OCCUPATION

Current Employer		
Address		Telephone Number
How Long Yrs. Mos.	Position or Title	Monthly Gross Salary
Former Employer and Position		Yrs. Mos.

If self employed or retired, please attach financial statement and / or Income Tax Return.

OCCUPATION

Current Employer		
Address		Telephone Number
How Long Yrs. Mos.	Position or Title	Monthly Gross Salary
Former Employer and Position		Yrs. Mos.

If self employed or retired, please attach financial statement and / or Income Tax Return.

OTHER INCOME

Alimony, child support, or separate maintenance income need not be revealed if you do not wish to have it considered as a basis for repaying this obligation.

Alimony, child support, separate maintenance received under: ☐ Court Order ☐ Written Agreement ☐ Oral Understanding	
Source of Other Income	Monthly Amount
Name and Address of Payor	

OTHER INCOME

Alimony, child support, or separate maintenance income need not be revealed if you do not wish to have it considered as a basis for repaying this obligation.

Alimony, child support, separate maintenance received under: ☐ Court Order ☐ Written Agreement ☐ Oral Understanding	
Source of Other Income	Monthly Amount
Name and Address of Payor	

DEPOSIT ACCOUNTS

Include Checking, Savings, Savings & Loan Associations, Credit Unions, etc.

Type	Branch and / or Company Name and Address	Acct. No.	Approx. Bal.
Checking			
Bank Savings			
Savings & Loan			
Credit Union			

DEPOSIT ACCOUNTS

Include Checking, Savings, Savings & Loan Associations, Credit Unions, etc.

Type	Branch and / or Company Name and Address	Acct. No.	Approx. Bal.
Checking			
Bank Savings			
Savings & Loan			
Credit Union			

CREDIT HISTORY

Be sure to list all open accounts, with or without a balance. Attach separate sheet if necessary.

Type Loan	Creditor (Company Name and Address)	Balance Due	Mo. Pymts
Mortgage ☐ Rent ☐			
Other Mortgage			
Credit Card			
Credit Card			
Dept. Store			
Auto Make Year			
Auto Make Year			
Other			

CREDIT HISTORY

Be sure to list all open accounts, with or without a balance. Attach separate sheet if necessary.

Type Loan	Creditor (Company Name and Address)	Balance Due	Mo. Pymts
Mortgage ☐ Rent ☐			
Other Mortgage			
Credit Card			
Credit Card			
Dept. Store			
Auto Make Year			
Auto Make Year			
Other			

GENERAL INFORMATION

Are you a permanent resident of the U.S.? YES ☐ NO ☐ If not, explain	
Have you ever declared bankruptcy? YES ☐ When	NO ☐
Are you a co-maker, endorser, or guarantor on any loan? YES ☐	NO ☐
Are there any unsatisfied judgements against you? YES ☐	NO ☐
Other Obligations — Example: Alimony, child support, separate maintenance, etc. Use additional sheet if necessary.	

GENERAL INFORMATION

Are you a permanent resident of the U.S.? YES ☐ NO ☐ If not, explain	
Have you ever declared bankruptcy? YES ☐ When	NO ☐
Are you a co-maker, endorser, or guarantor on any loan? YES ☐	NO ☐
Are there any unsatisfied judgements against you? YES ☐	NO ☐
Other Obligations — Example: Alimony, child support, separate maintenance, etc. Use additional sheet if necessary.	

Everything that I have stated in this application is correct to the best of my knowledge. I understand that you will retain this application whether or not it is approved. You are authorized to check my credit and employment history. If application is approved, I agree to abide by the terms and conditions of the Cardholder Agreement, a copy of which will be sent with my card(s).

I am also authorizing issuance of my Personal Identification Number (PIN) so I may use the (Hand/Bank) machines.
I understand that whenever "I" has been used in the above statement, it includes all applicants signing below.

265

Applicant's Signature _____ Date _____

Signature of Co-applicant _____ Date _____

279

OCS Rev 11-76

BankCard Application

First Security Bank
Member FDIC

BUSINESS REPLY MAIL
First Class Permit #4009 Salt Lake City, Utah

POSTAGE WILL BE PAID BY ADDRESSEE

First Security Bank
P.O. Box 30002
Salt Lake City, Utah 84125

NO POSTAGE NECESSARY IF MAILED IN THE UNITED STATES

266 250

280

Handling your money is easy as one, two, three.

1 **First Security Bank VISA Credit Card** — your blue, white and gold shopping and traveling charge card.

2 **First Security Banking Card** — the card that lets you make deductions from your checking account anywhere in the world VISA is accepted. It's the world's smallest, most convenient checkbook for the times you'd rather pay cash without having to carry a lot.

3 **First Security Bank Check Protection Plus** — guarantees your personal checks up to $100 at over 14,000 merchant locations and more than 145 First Security offices throughout the Intermountain area.

This one application can help you get them all.

When you qualify for any one of these cards, you're automatically qualified for the others. Of course, for the Banking Card and Check Protection Plus, you need a First Security checking account, which you can open quickly and easily at any nearby First Security office. The helpful, friendly people there are good to know and can help you with other banking needs as well.

The VISA Credit Card and the VISA Banking Card may also be used in First Security's Handibank automated teller machines. You will receive your Personal Identification Number (PIN), which is necessary for using the Handibank machines and is provided with either the VISA CREDIT CARD or VISA BANKING CARD. Your authorization for issuance of your PIN number appears on the application.

Check Protection Plus can be conveniently added to the back of either card, so one card will do double duty. Just check the appropriate box on the application.

Charging, cashing checks, using your checking account more conveniently in more places, getting cash advances, and getting to any of your First Security accounts at any time . . . these are the things that make handling your money as easy as one, two three. With the three convenience cards. Yours from First Security Bank.

280-A

Ford Motor Credit Company

APPLICATION STATEMENT (Please Print)

APPLICANT

Last Name | First Name | Middle Initial | Age | No. of Dep.

Present Address (Number And Street) | City | State | Zip Code | County

Phone In Applicant's Home? ☐ Yes ☐ No | Phone Number | ☐ Buying Home ☐ Own Home Outright | ☐ Living With Relatives ☐ Own/Buying Mobile Home ☐ Leasing/Renting | Lived There Yrs. Mos. | Military Status | In Reserves ☐ Yes ☐ No

Name And Address Of Landlord Or Mortgage Holder | Rent or Mtge. Pmt. $ | Driver's License No.

Previous Address (Street, City And State) | Lived There Yrs. | Yrs. In Area

Level Of Education Achieved: ☐ 2 Year College Grad. ☐ 4 Year College Grad. ☐ Some College ☐ Special Training | High School Grad? ☐ Yes ☐ No | Name of School | Field of Study | Degree Received | Year Graduated

APPLICANT'S EMPLOYMENT

Name And Address Of Applicant's Current Employer

Applicant's Occupation | Time On Job Yrs. Mos. | Employer's Phone Number | Applicant's Monthly Salary $

Supervisor's Name | Soc. Sec. No. (If Military, State Rank) | Badge/Dept. No. | Union Or Local No.

Previous Employer's Name | Time On Previous Job Years | Previous Employer's Address

* Alimony, child support, or separate maintenance income need not be revealed if you do not wish to have it considered as a basis for repaying this obligation. | * Source of Other Income | * Other Monthly Income $

APPLICANT'S CREDIT DATA

Bank References (And Branch) (Name Acct. Maintained In, If Other Than Above) | ☐ Savings & Checking ☐ Checking Only ☐ Savings Only ☐ No Account

Name And Address Of Applicant's Nearest Relative Not In Household | Phone No. | Relationship

Credit Card And Card Number | Credit Card And Card Number | Credit Card And Card Number

Creditor's Name And Address, Or Branch	Name Acct. Maintained In, If Other Than Above	Date Opened	High Credit	No. Of Instalments And Monthly Payment Amount	Date Of Last Payment	Unpaid Balance
(Previous Car Financed By:) (1)				●		
(2)				●		
(3)				●		

Other Credit Or Personal Reference (Optional)

Have You Ever Had A Car Or Other Merchandise Repossessed? ☐ No ☐ Yes If Yes, When? Month / Year

Have You Ever Filed Bankruptcy? ☐ No ☐ Yes If Yes, When? Month / Year

Is Applicant Obligated to Make Alimony, ☐ No

Child Support Or Separate Maintenance Payments? ☐ Yes If Yes, Amount To Be Paid Per Month Is $

JOINT APPLICANT OR OTHER PARTY DATA

Do Not Complete This Section Unless: (Check Applicable Block) ☐ Application Is For Joint Credit With Another Person, Or ☐ Applicant Relying On Income From Alimony, Child Support, Or Separate Maintenance Or On Income Or Assets Of Another Person As The Basis For Repayment Of The Credit Requested

Name | Address | Phone | Relationship To Applicant (If Any)

Credit Reference(s) And Name Acct. Maintained, If Other Than Above

(1)

(2)

(3)

(4)

Employer (Firm Name, Address, Phone No.)

Occupation | Time On Job Yrs. Mos. | Monthly Salary $

Have You Ever Had A Car Or Other Merc. Repossessed? ☐ No ☐ Yes | Month | Year

Have You Ever Filed Bankruptcy? ☐ No ☐ Yes | Month | Year

* Alimony, child support or separate maintenance income need not be revealed if you do not wish to have it considered as a basis for repaying this obligation. | * Source of Other Income | * Other Monthly Income $

● Applicant(s) Prefer Payments To Come Due On The _____ Of The Month.

● For the Purpose Of Securing Credit From You, I/We Certify That The Above Information Is True And Complete To The Best Of My/Our Knowledge. Applicant(s) Further Certify That I/We Have Attained The Age Of Majority. Applicant(s) Authorize You To Check My/Our Credit And Employment History And To Answer Questions About Credit Experience With Me/Us.

● Applicant Signature _____ Date _____ Joint Applicant Signature Only If Joint Account _____ Date _____

FOR USE SELLER ONLY

(1) Cash Price ..... $ _____ (1)

(2) Down Payment: Cash $ _____

Net Trade $ _____ ..... $ _____ (2)

(3) Unpaid Balance of Cash Price (1-2) ..... $ _____ (3)

(4) Other Charges

(Specify) $ _____ . $ _____ .. $ _____ (4)

(5) Amount Financed (3 & 4) ..... $ _____ (5)

(6) Finance Charge ..... $ _____ (6)

(7) Time Balance (5 & 6) ..... $ _____ (7)

(8) Payable In _____ Mo. Instalments of ..... $ _____ (8)

Annual Percentage Rate _____ %

☐ New ☐ Used | Year | Make | Body Style | Vehicle Identification Number

Trade In: Yr. ____ | Make | Trade Allow. $ | Owed On Trade $ | Net Allow. $

Dealer Name

PMCC 7141-S Jan 80 Previous editions may NOT be used. FORD CREDIT

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Course and Grade Level: Eleventh and Twelfth Grades
Government (Civics, Contemporary Problems, Law) and English

Topic: DEMOCRACY AND THE SCHOOL ENVIRONMENT

Topical Question: How does the social-political environment we live in affect our values and actions?

Time Required: One to ten weeks

Resources:

Materials: "Working Toward a Just Community," Bill of Rights in Action, Constitutional Rights Foundation, April 1977, pp. 19-21. (Copy included)

Bushman, David, "Law and the Democratic Classroom," LRE Report, Spring 1981, Vol. 2, No. 2, pp. 1-2, 8-9. (Copy included)

The following bibliography for readings is from Skills in Citizen Action by Fred M. Newmann, Thomas A. Bertocci and Ruthanne M. Landsness. Published in 1977 by the Citizen Participation Curriculum Project, University of Wisconsin, 225 N. Mills St., Madison, Wisconsin 53706.

Fiction: Huxley, Aldous, Brave New World, New York: Harper Row, 1969.

Rand, Ayn, The Fountainhead, New York: New American Library.

Skinner, B. F., Walden II, New York: Macmillan, 1969.

Poetry: Whitman, Walt, Leaves of Grass, New York: New American Library, 1971.

Drama: Lawrence, Jerome and Robert E. Lee, The Night Thoreau Spent In Jail, New York: Bantam, 1972.

MacLeish, Archibald, J. B., Boston: Houghton-Mifflin.

Non-Fiction Social Analysis: Machiavelli, Niccolo, The Prince, New York: Bantam Books, 1966.

Marx, Karl and Friedrick Engles, The Communist Manifesto, Monthly Review Press, 1968.

Plato, Republic, New York: Random House.

Thoreau, Henry D., Walden, New York: Bantam.

Toffler, Alvin, Future Shock, New York: Bantam, 1971.

Classroom Activity: "Working Toward a Just Community," Bill of Rights in Action, April, 1977, pp. 19-21.

People: Representatives of the school administration, PTA, and/or Board of Education.

Content: Through literature, students will explore and compare various analyses and prescriptions for social organization. Utopian and analytical writings will offer a variety of conceptions of human nature and governments and communities based on those perspectives. These abstract notions will be practically applied in the context of the school, itself, through a role playing exercise called "Managing School Conflict."

Objectives:
1. Students will understand at least two writers' views of the forms of social organization that encourage just relationships between people.
2. Students will be able to compare and contrast at least two of these viewpoints.
3. Students will be able to apply these notions of a just community when dealing with school-oriented problems.

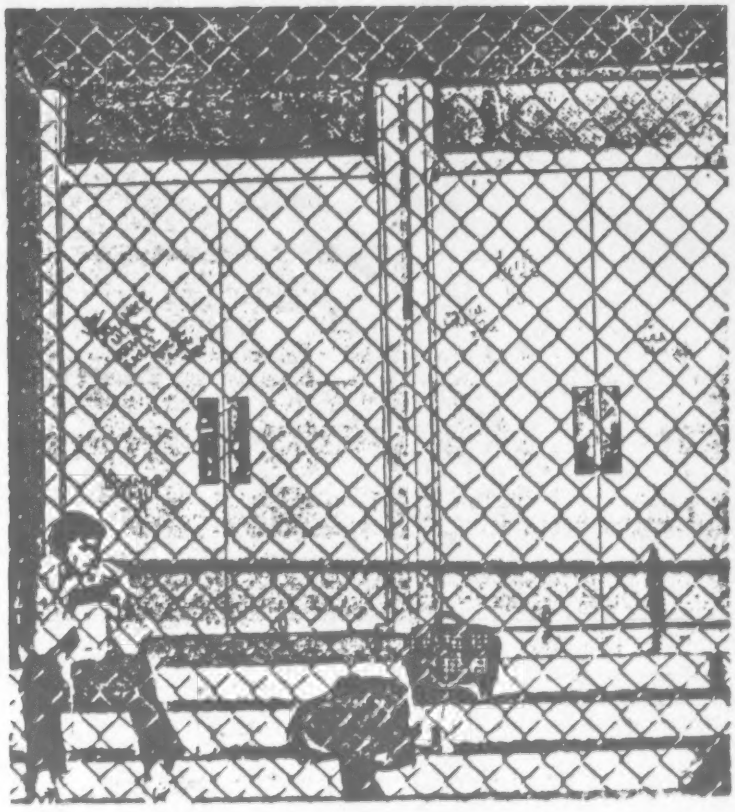
Procedure:
1. Readings - Student will read a minimum of excerpts from two of the literary works listed above. Preferably, each student will read at least two complete works and, ideally, they will read even more. (How much students are able to read will depend on the availability of the books, the time that can be devoted to this lesson and the ability of the students.)
2. Students will respond to the works they read in a theme comparing and contrasting the views of at least two of the authors.
3. The class will engage in the "Managing School Conflict" simulation.

Evaluation: The form of conflict resolution as found in the "Managing School Conflict" simulation will be used by the students as they respond to and compare the writings by the various authors listed in the bibliography.

Teacher Comments: Teachers interested in further democratizing their classrooms might consider reading Skills in Citizen Action by Fred M. Landsness.

It was published in 1977 by the True Citizen Participation Curriculum Project at the University of Wisconsin, 225 N. Mills St., Madison, Wisconsin 53706. The bibliography for the readings in this lesson is borrowed from that work. Other resources are listed in the April, 1977 issue of Bill of Rights in Action, the publication in which "Working Toward a Just Community" appeared. Finally, the lead article in the LRE Report, Spring 1981 issue (Vol. 2, No. 2) titled, "Law and the Democratic Classroom" by David Bushman offers pedagogical justification and specific strategies for democratizing the classroom.

Social Studies and English teachers could coordinate this unit for students taking both literary and social science merit and credit.



Working Toward a *"Just Community"*

For most young people, the schools serve as the center of their social and political experience. In addition to the formal curriculum, the school system serves as a model from which young people also learn. Traditionally, the formal curriculum emphasizes that our society is a democracy committed to the search for justice and equality based on widespread political participation. Unfortunately, there are few schools which practice these values in their relationship with students. Therefore, as many critics of schooling have noted, the way young people are educated in our society may do little to prepare them for citizenship in a democracy.

There are many observers of our educational system who doubt that schools can educate the young to believe in justice and equality without providing living examples of these values within the school setting. At the present time school systems tend to be organized for administrative efficiency, with power flowing from the top. However, throughout the United States, there is a growing movement to involve parents in decision making at the school level. This development also provides an opportunity to experiment with models which include students as well as adults in the school decision making process.

In 1974, Lawrence Kohlberg and his associates began an experiment in democratic schooling at Cambridge High and Latin School near Harvard University. They formed a small school-within-a-school composed of about sixty student volunteers from a variety of racial and economic backgrounds. These students, together with their six teachers, each with one vote, drew up and agreed upon a school constitution. This constitution, rather than rules and regulations imposed by school authorities, provided the basis for the school's discipline and decision making. Kohlberg refers to a group in which all those involved have an equal voice in its decisions as a "just community."

At Cambridge High and Latin School, community meetings involving the students and teachers have been held to discuss what to do with students who violate the school's constitution. While these meetings sometimes have become quite chaotic, the main objective has been to encourage the young people to develop a sense of trust for one another and their teachers. In addition, Kohlberg hopes that within the context of the "just community" students will begin to use more principled reasoning than they did in the traditional school setting. The "just community," according to Kohlberg, should prepare students to more adequately become responsible and contributing citizens in our democratic society.

"Managing School Conflict" is based on a model which involves parents, students, and teachers in school governance or decision making. This role-playing simulation has been developed with two purposes in mind. First, it can be used as a role-playing exercise in the classroom to enable students to better understand the dynamics of decision making in a democracy. Secondly, this simulation might also be adopted as a model for actually resolving conflicts within the school along the lines suggested by Lawrence Kohlberg's "just community" concept. In either case, "Managing School Conflict" represents another method within the area of law studies which furthers the objectives of moral reasoning and moral education.

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Managing School Conflict

Simulation Procedure

Introduction

1. Ask everyone to read, "The School Complaint Committee," on page 20.

Assigning Roles

2. Divide the main group into five subgroups. Assign one of the following roles to each group.
   a. School Principal
   b. Teacher
   c. Student, elected by the student body at large
   d. Student Body President
   e. Parent
3. Explain to the members of each subgroup that they will act as either a principal, teacher, student, or parent in dealing with a series of problems which come before the School Complaint Committee. It is important for the group members to think about how they will act in their new roles. Point out that it is important for them to reflect upon the way they believe members of their role group would react to the idea of a School Complaint Committee with real authority. Allow time for them to talk in their groups about how they believe students, parents, teachers, and principals would respond to issues presented at a School Complaint Committee meeting.

Establish the School Complaint Committees

4. Set up six School Complaint Committees by taking one member from each of the role groups previously established. Each Committee should have a principal, a teacher, a student body president, a student elected by the student body at large, and a parent. The principal will act as Chairperson of the Committee.

   Note: If your large group is not an even 30, use only one student in the School Complaint Committee meetings.

Role-Playing Session

5. Instruct each Committee to analyze and role-play one of the case studies. For each case study, the members of the School Complaint Committees should discuss the problem *from the viewpoint of their respective roles*, and then decide what should be done about it. The Chairperson in each Committee should write down what action this Committee agrees upon.

   Note: Actual school problems may be substituted for these cases in order to increase the realism and practicality of the simulation.

General Discussion

6. At the end of the role-playing session, each Committee should elect a spokesperson. The spokespersons will then meet in a circle in the center of the room. Instruct spokespersons to describe the issues that their committees discussed and how they decided to deal with the problems. Other members of the group should sit outside the circle. They should also participate in the discussion. The simulation leader should act as the facilitator of the discussion. After each decision has been discussed, ask the group if there were any issues which were overlooked. If so, what?
7. At the end of the discussion ask the group to discuss the practicality of the School Complaint Committee idea as a means of resolving school problems. The following questions might be asked:
   - How should Committee members be selected?
   - How much authority should they have?
   - Do students need a place to register complaints? How should this be handled?
   - Are there ways to deal with school problems that would be better than through this type of Committee?
8. Representatives of the school administration, PTA, Community Advisory Council and Board of Education could be invited to participate in the simulation and/or visit the class to discuss possible methods of involving students in school decision making.

The School Complaint Committee

Over the past several years, the day-to-day problems of governing our secondary schools have become increasingly severe. The growth of criminal activity such as violence, vandalism, and drug use contribute to the problem. Furthermore, young people have no formal means to register complaints related to the school. In an effort to respond to these problems, this simulation activity has been prepared. As you begin the simulation, assume that the school board has established a new form of school decision making which includes a School Complaint Committee.

Every secondary school in the school district has a School Complaint Committee chaired by the school principal who has final authority and responsibility for most of the issues which come before it. Other members of the Committee in each school are: a parent elected by the community, a teacher elected by the faculty, two students, the student body president and another student elected at large by the student body. The Committee meets once a week on a regular basis to deal with campus problems and discipline cases. If complaints appear to have validity, it is the responsibility of the principal to see that they are brought to the attention of the proper school authorities.

Cases For the School Complaint Committee

Case No. 1: Gangs and Vandalism

Coolidge High School is an old inner city school which has had problems with gangs for many years. There are at least three rival gangs with large memberships among the student body. While the most serious outbreaks of violence have occurred off-campus at night and during weekends, the school has been subject to extensive vandalism which appears to be gang related. Gang names and symbols have been painted on the walls, carved on desks; threats and challenges appear on the walls of the school entrance. It has been necessary as a result of several violent acts on campus to in-

crease the number of security guards and to attempt to find and confiscate weapons in the possession of students. Numerous efforts have been made by the administration to reduce or eliminate these problems. The following procedures now make up the school's plan for dealing with this issue:

1. Teachers are ordered to check periodically the condition of classroom furniture and to ask students to report any new marks.
2. The use of felt pens and magic markers has been banned.
3. Students who are apprehended in the act of vandalizing are required to participate in work teams to clean, repaint and repair defaced property.
4. Parents are informed of their liability for the destruction of property by their children.
5. Students are lectured by their teachers and the administration.
6. A campaign designed to increase school pride has been undertaken.

None of the steps taken so far have had any notable success. School morale is very low.

Mr. M, a faculty member, appears before the committee to make a report on his work with the gangs in the school. He tells the committee that he has made a special effort to get to know and work with gang members. He has provided them with special tutoring, worked with them on the development of a recreation program for their members, and has succeeded in bringing about a signed truce between rival gangs in the community. He indicates to the committee that the gangs have offered to guard the school and protect it from vandals and from students from other neighborhoods who might try to enter the campus. In return, they would like to be given permission to wear their gang caps and jackets on campus.

Will you as a committee accept the gang offer? What are the strengths and weaknesses of working in this manner to reduce the problem of gangs? What other steps to reduce the gang problem can you suggest?

Case No. 2: Administrative Leadership

Until this year, South High School was run in a military manner by a principal who was a stern disciplinarian. After the school board approved plans for the School Governance and Complaints Centers, the principal, who was strongly opposed to the plan, applied for a job in another district and left the community. The new principal has tried to introduce a more democratic atmosphere at South High School and has been very receptive to the concept of the School Complaint Committee. He has worked closely with committee members and made it clear that he will support their decisions as completely as possible.

Unfortunately, democratic procedures have not worked well under the new principal. Morale among the faculty is low. They feel abandoned and without support from the principal. Many students are taking advantage of their new freedom. The halls are noisy and rowdy between classes. There have been many incidents of food throwing in the cafeteria. The buildings and grounds are badly littered. There has been an epidemic of trash can fires. The teachers claim that the amount of disrespect and serious discipline problems in the classroom has increased. There have been many parent complaints about the problems in the school and much of the blame has been directed at the inability of the new principal to provide adequate leadership. There are many written complaints before the committee at this meeting from parents, students and teachers, asking that someting be done immediately to deal with these problems.

It is your task to work out a plan to make the new approach successful.

Case No. 3: Campus Locker Search

It has long been the practice to carry out sudden and unannounced locker searches, supposedly for the purpose of recovering lost and overdue library materials. Prior to the establishment of the School Complaint Committee, the Vice-Principal in charge of discipline dealt with students in whose lockers weapons or other contraband such as drugs or alcohol were discovered. Serious cases were turned over to the police. It has been clearly established by the courts that as school property, school officials do have the authority to open and examine the contents of lockers loaned to students for their use.

How can locker searches be conducted in the fairest possible manner? What procedures should be established to deal with cases arising from locker searches? Are there or should there be alternatives to suspension in the case of contraband discovered in lockers?

Case No. 4: Use of Controversial Materials in the Classroom

Webster High School is located in a middle class neighborhood. Mr. K has been considered a popular and effective teacher of Social Problems. Recently, a number of complaints have been received from parents and students accusing him of using inappropriate and obscene materials in his classroom. Mr. K has submitted his course of study to the committee which shows that he has used magazine articles which contained profanity in their titles and in the body of the articles themselves. The principal also tells the committee that Mr. K has permitted students to place on his classroom bulletin board certain obscene words intended to illustrate various social issues being studied in the classroom.

As a committee, how will you respond to parent complaints? What action do you believe should be taken regarding Mr. K's activities in the classroom? How can such problems be avoided in the future?

Case No. 5: Grading Standards

This high school is located in a middle class suburban area where many of the students plan to attend college. The committee finds before it a petition signed by 30 students asking that steps be taken to do someting about the unfair grading practices of Mr. Brown, an English teacher. The complaint accuses Mr. Brown of unfair grading practices; assigning student grades on the basis of favoritism, assigning excessive written work which is graded but never returned to the students with comments or criticisms, posting student grades on the bulletin board, criticizing members of his classes for poor work in front of other students, and for not clearly explaining how materials will be evaluated and what students must do to earn their grades. Finally, the students point out that they are being unfairly penalized for being in Mr. Brown's English classes since students in other English classes have a much better chance of receiving higher grades.

The principal produces a record of past grades in the English Department which shows that students in Mr. Brown's classes do not earn as many top grades as students in other English classes. He also says that Mr. Brown has been on the faculty for many years and is respected by students who return from college and say that his classes have been very valuable to them.

What procedure will you establish for dealing with complaints of this kind? Should uniform grading standards be established in the same subject areas taught by several teachers? What are the committee's responsibilities with regard to the other issues raised, assuming that they are correct?

Case No. 6: Racial Conflict

Franklin Pierce High School has recently undergone racial integration. About 60% of the students are white, and 40% are black. Several cases of extortion have been reported to the principal. Usually, a group of black students are accused of threatening a white student with physical harm unless he pays them "insurance money." At the same time, many black students have complained to the principal that they are constantly being pushed and shoved in the halls by white students. The black students also say that they are not allowed by the white students to use certain rest rooms and cafeteria tables.

What strategy would you recommend to handle this potentially violent school situation?

Clark, Todd, Editor, "Working Toward a 'Just Community.'" Bill of Rights in Action, Constitutional Rights Foundation, Los Angeles, California, April 1977, pp. 19-21.

LRE REPORT
what's happening in law-related education
Spring 1981 Vol. 2, No. 2

Law and the Democratic Classroom

Dave Bushman

One of the goals of law-related education is to instill in our students an acceptance and appreciation of democratic values. We stress the importance of due process, the need for citizen participation, and the ultimate wisdom of an enlightened people given an equal opportunity to participate directly or indirectly in the decision-making process of a democracy.

Recently I heard a high school principal (a former social studies teacher) speak on the importance of teaching democratic values in social studies classes. Yet this same principal, and others in this position, presides over a school that is operated in an extremely undemocratic manner. The fact is that schools *by their very nature* have traditionally been among the most undemocratic of all institutions in our society. This is due to two major factors.

First, historically neither teachers nor students were recognized as having rights. Teachers held their jobs as long as they pleased their supervisors. Students were beaten, suspended and expelled at will. The issue of students' rights was not even considered significant enough for the United States Supreme Court to deal with until the *Tinker* case was decided in 1969. Even today, the issue of students' rights is greatly controversial.

Second, even under the best of circumstances, schools by their very nature function undemocratically. Teachers are employees, subject to the restrictions inherent in such a relationship. Students are also subject to certain restrictions inherent in their status.

The past few decades have seen the rise of teachers' unions and an increase in the power that educators have in the school system. Students, however, have no union. They are required by state law to attend school. They have had little or no say in how their school is run, what they are taught, and who teaches them.

Why We Need Democratic Classrooms

The concept of the "democratic classroom" is generally credited to John Dewey. Yet the critics of the democratic classroom concept try to use Dewey's own writings to discredit the concept. The basic criticism of the democratic classroom seems to be that since it is impossible to achieve a totally democratic classroom, then the concept is either a misnomer or a mistake. The fallacy of the criticism is that it is not necessary for schools to be totally democratic. First, it is impossible for schools to be totally democratic; second, it is undesirable! If the purpose of school is to prepare students for life in the real world, then it would be just as unrealistic to create a totally democratic classroom as it would be to create a totally undemocratic classroom. Life in our society is not *totally* democratic but *basically* democratic. Even in our political democracy, there are and must be some undemocratic elements.

But just because it is impossible to create a totally democratic classroom, that does not render the concept of the democratic classroom invalid. Students can still be shown the advantages of democratic life, while still enabling the school to educate the students in its care. But we must be willing to make some basic changes in the way we operate our schools and our classrooms.

The frequently heard complaint from students is that "school is a prison." This complaint is often dismissed by educators as being frivolous. We don't want to deal with this feeling, even though we often express the same or similar feelings as educators when we feel trapped in a mindless bureaucracy. Yet it is this feeling that so accurately represents the feelings and attitudes of so many students.

It is ironic to note that the decision of the United States Supreme Court in *Ingraham v. Wright*, 430 U.S. 651 (1977), had the effect of granting actual prisoners greater protection against cruel and unusual punishments than students (a point made by Justice White in his dissenting opinion). To dismiss this complaint by students so easily is to tell students that their feelings and opinions are not only untrue but are unimportant.

Under these conditions, how can we then expect to teach students about democratic values and serious-

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ly expect them to value and adopt these ideals for themselves? It is absurd to deny students any say in determining their education and then expect them to cherish democratic values when they graduate, as if something miraculous happens to students on the day of their graduation which instantly transforms them into useful, productive, and enlightened citizens.

The Democratic School

The concept of a democratic classroom must be reflected not only in the classroom but throughout the entire school. If we are truly concerned about instilling democratic values in our students, we must involve students as much as possible in both the planning and running of their school and direct participation in classroom activities. The following is a partial list of suggested methods of involving students in the planning and operating of their school. Not all of these suggestions are suitable or practical for all schools and all students. But many schools and school systems already have such or similar procedures:

1. Students should have full representation on community school boards, school policy committees, curriculum planning committees and parent/teacher associations.
2. Students should have an effective and functioning student government organization, representing all students, using procedures into which students have had input, and controlling the disbursement of student funds.
3. Students should have all facilities for operating a student newspaper which is run by students, written by students, and which reflects the policy and judgment of the student editors, free from any control other than the normal rules for responsible journalism.
4. Students and their parents should have full access to all information contained in their permanent school records, including the right to challenge the accuracy of such information and the right to have unproven and inaccurate information removed from their records.
5. Students should have the right of privileged communication with school personnel similar to the privileged communication relationship between individuals and certain professionals. In New York State, such a relationship is established by law in the Civil Practice, Law and Rules. This covers communications with attorneys (section 4503), physicians, dentists, and nurses (section 4504), the clergy (section 4505), psychologists (section 4507), and social workers (section 4508).
6. Students should be free to exercise their constitutional rights while in school, provided that the exercise of such rights does not disrupt the orderly functioning of the school or interfere with the rights of others.
7. When faced with suspension or other disciplinary action, a student should have substantive and procedural rights, including but not limited to the right to the presumption of innocence until wrongdoing has has been proven beyond a reasonable doubt, the right to an adequate notice of the charges against the student, the right to confront

Newsletter Stolen!

CHICAGO — Officials of *LRE Report* expressed grave dismay today over the theft of the spring issue of the newsletter. Said editor Charles White, "This is unprecedented. I mean, we editors are accustomed to worrying about censorship, but car thieves are something new."

Every shred of copy for the newsletter, including forms sent in by projects from around the country telling of this year's summer programs, disappeared when the car of YEFC secretary Khani Hicks was stolen.

What was the manuscript doing in her car in the first place? In the best tradition of YEFC and LRE, Khani was taking the newsletter and forms home to put on some finishing touches when disaster struck. So far, police have no leads, she has no car, and we have no way of duplicating the material that was stolen.

White explained this latter dilemma, saying, "editors get very neurotic about manuscripts. We always make copies. We did this time, too, only by mistake Khani took both copies with her, so the thief has twice the amount of useless pages."

In the unlikely event the thief should become intrigued by law-related education and show up at some of the summer institutes (he's the only one in the world who knows when and where they are), project officials are urged to get in touch with YEFC. Be on the lookout for someone driving a blue and tan 1978 T-bird with Illinois plates.

White extends his apologies to every project leader who had filled out a form and expected to see his project included in this issue. "There were more this year than ever, sixty or so, but there's absolutely nothing we can do to recover them. We'll try to run the section again next year, and this time we promise to make hundreds of copies, hiding them all over town if necessary."

and cross-examine witnesses, the right to appellate review, and protection against cruel and unusual punishments by the outlawing of corporal punishment in the schools.

8. There should be a student court, elected and run by students, which would function as an alternative to official school disciplinary proceedings. Students facing disciplinary action would have the option of either method.

Many schools and school systems already have similar procedures. Yet some schools and school systems having such procedures ignore or even blatantly disregard their own guidelines and regulations.

Teachers Have a Key Role

Even if all the above suggestions were implemented to the fullest extent, there is still one crucial area where students are affected the most in the day-to-day school routine: the classroom. Students come into contact with school administrators much less frequently than they do with classroom teachers. It is the classrooms, therefore, where students learn the realities of life in school and the single most important place where real and lasting democratic values can be taught. The following are some suggested methods of making the classroom a more democratic environment. Some are methods I have developed and used myself; others are methods I have observed or heard about. Each one is designed to give students more rights and responsibilities in their classroom:

1. The students and the teacher should sign a contract at the beginning of the semester. The contract should specify what the student will be expected to accomplish in order to pass the class, including the quantity and quality of the work to be done and the standards for grading such work. While the contract is not legally binding, it does provide students with a written explanation of their obligations. It also protects the student against arbitrary grades and allows the teacher to explain how the grade was determined. Certain portions of the contract might even be negotiated.

2. Students should receive a written explanation of their report card grade each marking period and the way in which that grade was determined. The student should then have the right to file a written appeal if the student does not feel the grade received was fair. The notice of appeal should require the student to explain in writing what grade he/she thought should have been given and the reasons for such a grade. There should be a time limit for such appeals. The teacher should review each appeal and respond to it in writing within a day or two. If the student is still not satisfied, the student should have further avenues of appeal through the department chairperson and then the principal.

3. Classrooms should be arranged in a manner other than the traditional one, i.e., all the desks in rows facing the teacher (Figure 1).

This arrangement not only makes most lessons automatically teacher-dominated but prevents interaction and interchange between students in the same class.

Smaller classes might be arranged in circular or rectangular fashion (Figures 2 and 3), while larger classes might have half the students facing the other half (Figure 4).

Any variation of the dominant pattern of seating found in most classrooms can be useful if it encourages closer involvement with other students and with the teacher.

4. Work in class should be in small groups when possible, even if just for a few minutes. This provides for greater student interaction and less teacher domination.

5. Students should be given a choice of assignments where possible, instead of one specific assignment for all students. If a term project report is a course requirement, students should have the option to choose from among different kinds of projects, such as thesis, biography, interview,

FIGURE 1

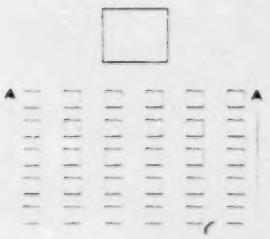
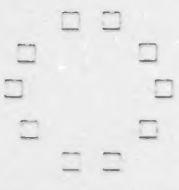


FIGURE 2



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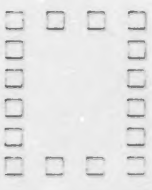

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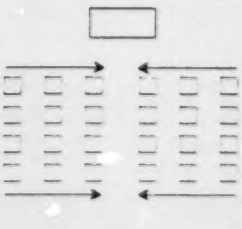

public opinion survey, book report. The teacher might assign different maximum point values to each type of project so that the student who chooses a more difficult type of assignment can earn a higher maximum grade.

Why Wait Any Longer?

These suggestions are not all the possible innovations which exist. They are mentioned here to encourage educators to experiment with their own classrooms and to encourage all of us to develop other methods for making schools more democratic institutions. One word of warning. These changes might not come easily, for students or educators. They take time and care to develop and maintain. Too many of us are so frequently hassled during the school year that it simply becomes easier to do everything "the way it's always been done."

I urge you to take the time. Make one small change each semester. Discuss this change with your students and colleagues and explain why you are doing it. Encourage your colleagues to try one small change also. Get involved in your school's planning sessions and policy meetings where possible. It is more difficult than just letting things go on like they always have, but the results of your efforts will be worthwhile.

My overall impression of the high school students I have taught during the past 13 years is that they are extremely sensitized about hypocrisy. They are quick to sense when another person, particularly an adult, is saying one thing and doing another. These attitudes have come from students time and time again in our discussions of what kinds of behavior should be illegal. They hear it from their parents, who criticize their child's involvement with drugs while they themselves drink alcohol and take pills. They see it in the gap between our country's ideals of "liberty and justice for all" and the overcrowded courts and prisons which often dispense "justice" quite arbitrarily.

They also see it in the educators who talk about the virtues of democracy but deny those advantages to students. If we are to overcome some of the apathy students have toward school, what better way to start than by making students real participants in their education, and not merely casual observers.

"Shame on you for suggesting such a tactic—unless, of course, you can cite a precedent."

Back in 1943, Ruth Benedict wrote, "(I)t is at this point of transition from childhood dependency to adult independence that our culture most often fails adequately to transmit our democratic heritage and that our educators must work with our social planners if our current wastage is to be lessened." (Ruth Benedict, "Transmitting Our Democratic Heritage in the Schools," *American Journal of Sociology*, Vol. XLVIII, No. 6, May 1943, University of Chicago Press p. 727.) Clearly, we have not met the challenge Ruth Benedict identified 38 years ago. Why wait any longer?

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How to Get in Touch with YEFC

For information on any of the stories in this report, or for any YEFC services, write us at 1155 E. 60th Street, Chicago, IL 60637, or call us at our general number, (312) 947-3960.

LRE Report, Spring 1981, Vol. 2, No. 2, pp. 1-2, 8-9.

Course and Grade Level: Eleventh and Twelfth Grades
Law-Related Education Course

Topic: SEARCH AND SEIZURE

Topical Question: What is a search warrant and when is it valid?

Time Required: Two to three fifty-minute class periods

Resources:

Materials: Arbetman, Lee P., Edward T. McMahon and Edward L. O'Brien, Street Law, Second Edition, St. Paul: West Publishing Co., 1980, Student Edition; pp. 65-71, Teacher's Manual, pp. 68-72.

Cop Talk Instructor's Guide, Salt Lake City: Utah State Office of Education, 1981, pp. 79-101.

"Teaching About Search and Seizure," Update, Spring 1978, pp. 8-12 and 40-42.

People: Resource Officer to debrief the role play.

Content: Students will gain insight into the complexity of the Fourth Amendment, specifically as it relates to obtaining and issuing a valid search warrant.

Objectives: At the end of this lesson, students will be able to:

1. Understand what the different types of search warrants are.
2. Describe when a search warrant is required.

Procedure:

1. Review types of searches. (See Street Law, page 70.)
2. Class discusses a search situation photo on page 70. (Introduce concept of "implied consent" and expectation of "privacy.")
3. Divide the class into six groups of five students. Have each group discuss one of the following situations in Problem 26 of Street Law, pages 70-71: A, E, and F. Report to class whether search is lawful or unlawful, including the reasons why.
4. Role play: "The Case of Fingers McGee" (See attached). (Read pages 71 and 72 of Street Law, Teacher's Manual prior to this role play.) Students who are not participating in role play could begin homework assignment while participants are preparing.
5. Have the resource officer debrief the role play. The resource officer observes the students during the role play and then discusses the correct procedures which would be used by an officer in this situation.

Evaluation: Students are given a take-home quiz. Answer Problems B, C, D, G, and H from Problem 26, of Street Law, pages 70-71. Due next day of class.

Teacher Comments:

1. This lesson will have been preceded by at least two days of discussion on the topic, including an examination of the language of the Fourth Amendment, what a search or seizure is, when a search or seizure is unreasonable, and vocabulary and situations particular to the search and seizure issue.
2. This lesson could be modified or expanded through:

   a. Use of a resource person (lawyer, judge, police officer).
   b. Showing the video tape Cop Talk #3, Search and Seizure, available through the Division of Curriculum and Instruction, Utah State Office of Education, 250 East 5th South, Salt Lake City, Utah, 84111. Also available for check-out from the Statewide Clearinghouse on Law-Related Education, Room 310A, Metropolitan Hall of Justice, 240 East 400 South, Salt Lake City, Utah, 84111.

ARREST AND SEARCH ROLEPLAY

INTRODUCTION

Under the Fourth Amendment to the Constitution, citizens are protected against "unreasonable searches and seizures." However, the precise practices which fall within this reasonable standard have long tormented our courts.

In the following roleplay, students participating as a police informant, the two arresting police officers and the accused, are presented with an opportunity to explore arrest and search law in a concrete, factual context. They gain an insider's perspective on the problems the police face in making split-second decisions regarding their own safety and the preservation of evidence necessary to the prosecution in a subsequent trial. In addition, the class is confronted with the alternatives facing a citizen who wishes to assert his rights in an arrest and search situation.

PARTICIPANTS

1. Fingers McGee, the informant
2. Police Officer Jones
3. Police Officer Smith
4. Bill Johanson, the accused

THE ROLEPLAY

Part I: At a street corner meeting, police officers Jones and Smith are told by Fingers McGee, who has been a reliable informant in the past, that just twenty minutes earlier he saw a six foot tall white male who "looked like" Bill Johanson and whom the police don't know, being chased down the block by the owner of the Dixie Liquor Store. McGee says that Johanson had been carrying a sack and a knife and was probably headed toward his home some two blocks away (apartment number given). McGee also tells the police officer that he knows that Johanson is a drug addict.

Roleplay this street encounter.

Part II: About ten minutes before their encounter with McGee, Jones and Smith had received a police radio report indicating that a robbery had taken place at Dixie Liquors. The report noted that a white male, about six feet tall, had committed the crime according to a statement given to police by the store owner.

Jones and Smith, deciding to pursue McGee's tip, go to Bill Johanson's house. When they arrive, they will find him sitting at a desk, nodding and obviously on drugs.

Roleplay this arrest and search situation. (Before this portion of the roleplay, the two police should be given a few moments to confer as to the strategy they will use in the arrest. The following items should be in Johanson's home: a gun, in the desk drawer; a knife, on the desk in plain view of the police; a sack full of money, in the far corner of the room; and a small package of heroin, in Johanson's shirt pocket).

DISCUSSION QUESTIONS

1. Did the police officers have enough information from their encounter with McGee to arrest Johanson? To investigate further?

2. Did the police officers have enough information between the tip and the police radio report to arrest Johanson? Was the fact that Johanson was nodding when they found him of any significance?

3. Would the answers to the above questions be any different if the police had never met or heard of McGee before the street encounter?

4. Before entering Johanson's house, should the police have announced their purpose and authority? Does this situation fall within an exception to that general rule governing police conduct? Should it?

5. At what point did the officers have the probable cause necessary to arrest Johanson? Could they have frisked him before they arrested him?

6. At what point should the police have read Johanson the Miranda warnings?

7. Could the police have seized any evidence before putting Johanson under arrest?

8. How thoroughly could the police have searched Johanson's person and home after putting him under arrest?

9. Once arrested, where should the police have taken Johanson?

10. How might Johanson have best protected his rights in this situation?[1]

[1] National Street Law Institute, 605 G. Street, N.W., Washington, D.C. 20001, 1975.

Course and Grade Level: Eleventh and Twelfth Grades
U.S. History, Sociology, Law, and Parenting

Topic: STRUGGLE FOR WOMEN'S EQUAL RIGHTS

Topical Question: How long have women's rights been an issue in U.S. History?

Time Required: Three fifty-minute class periods

Resources:
Materials: Resolutions of Seneca Falls Convention of 1848 (included).

Content: Students will gain a knowledge of the struggle for women's equality through the 19th and 20th centuries by examining and discussing the resolutions of the Seneca Falls Convention and the Equal Rights Amendment. Through this study, they will gain an awareness of the interaction between changing attitudes, social movements and constitutional amendments.

Objectives: At the end of this lesson, students will be able to:

1. Identify the major demands of the Seneca Falls Convention of 1848.
2. Demonstrate further understanding of the process of passing a constitutional amendment by discussing the time period in which the 19th Amendment was fought for and adopted, and the current, ongoing process involved in the adoption of the proposed 25th Amendment.
3. Demonstrate an awareness of the continuity and change in women's rights from the 19th through the 20th centuries.
4. Demonstrate their ability to use periodical literature in the study of history by stating five pro and five con arguments on the Equal Rights Amendment.

Procedure: <u>First Day</u>

1. Hand out or write the quotations included with the lesson on the board. Use quotations to motivate discussion and as an introduction to the Seneca Falls Convention of 1848.

   Questions for Discussion: What attitudes toward women are expressed? How might the quotation reflect the attitudes of the time in which they were written? What reactions do you have to these quotes?

2. Use as an overhead or pass out handouts of the Seneca Falls Convention of 1848's list of grievances. The convention is the first women's rights convention in U.S. History.

   Questions for Discussion: What do the demands of and grievances expressed by the feminists reveal about women in the society of the mid-1800's? Give examples. What did the women hope to accomplish by their declaration? Was there a double standard of morality then? Does it exist today? In what ways? Why might some feminists be reluctant to demand the vote? When did women get the right to vote? How many years did it take after the Seneca Falls Convention to get the vote? Why do you think it took so many years? Are there some areas of life today in which the grievances of Seneca Falls would be relevant?

Second Day

1. Ask the class to state what they think is written in the Equal Rights Amendment. Write comments on the board.
2. Write the Amendment on the board.

   > Section 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.
   > Section 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.
   > Section 3. This amendment shall take effect two years after the date of ratification.

   Discuss discrepancies and lack of information on the amendment if they are evident.
3. Pass out various magazine articles on the amendment and ask the students to write a flow sheet of pro and con arguments (sample included) as they read through the various sources. Articles can be easily obtained from the school library by having several students search them out beforehand or by asking the librarian to make a collection. Research may also be done in the local library if available.

Third Day

1. Choose a panel of five students, 2 pro, 2 con and a moderator, to discuss the proposed amendment. Open discussion to class comments and questions.

   Questions to be discussed: Is the Equal Rights Amendment needed? Are present laws adequate to protect rights for both men and women? Are changes in present methods of law enforcement needed? What psychological and moral effects might the passage of this amendment have on our society? Will the ERA eliminate all legal distinction between men and women? How might the proposed amendment affect you?

Evaluation:
1. Students will prepare a paper on pro and con ERA arguments.
2. Students will write an opinion paper based on their own investigation of the equal rights issue.

Teacher Comments: This lesson should be preceded by a discussion of the constitutional amendment process and used as a supplement in gaining further knowledge of the interaction between changing social values and the interpretation and amendment of the Constitution. Discussion of the 14th Amendment should also be included.

Variation: Have students design a Declaration of Sentiments for today concerning any injustices felt by the sexes based on their present-day values. Resolutions should be discussed; then by a process of elimination, the class should vote upon those felt to indicate the sentiments of our times.

Divide groups into different sexes. Have the boys devise a declaration stating their sentiments concerning any discrimination against them by women. Through discussion, elimination, and voting, they should establish their high priorities of sentiments.

Divide students into groups with some favoring strictly the traditionalist role for women (women only in the home, as housewives and mothers) and some who don't. Use the same process.

Students can establish a Values Continuum (sample included) on the issues they decide on that could be posted in the room.

QUOTATIONS

The belief in limited status for women began long before the 19th century. The following quotations range from ancient time to the present.

Never trust a woman, even though she has given you ten sons.
--Chinese Proverb

In childhood a woman must be subject to her father; in youth to her husband; when her husband is dead, to her sons. A woman must never be free of subjugation.
--Hindi Code of Manu, V

Nature intended women to be our slaves--they are our property; we are not theirs. They belong to us, just as a tree that bears fruit belongs to a gardener. What a mad idea to demand equality for women! Women are nothing but machines for producing children.
--Napoleon Bonaparte

God created Adam lord of all living creatures, but Eve spoiled it all.
--Martin Luther

Women, in general, want to be loved for what they are and men for what they accomplish. The first for their looks and charm; the latter for their actions.
--Theodore Reik

I thank thee, O Lord, that thou hast not created me a woman.
--Daily Orthodox Jewish Prayer (for a male)

Woman as a person enjoys equal dignity with men, but she was given different tasks by God and by Nature which perfect and complete the work entrusted to men.
--Pope John XXIII

The great question that has never been answered, and which I have not been able to answer despite my thirty years of research into feminine soul, is: What does a woman want?
--Sigmund Freud

My secretary is a lovable slave.
--Morris Ernst, attorney, on the 50th Anniversary of his having hired his secretary.

Women are usually more patient in working at unexciting, repetitive tasks...Women on the average have more passivity in the inborn core of their personality...I believe women are designed in their deeper instincts to get more pleasure out of life--not only socially, occupationally, maternally--when they are not aggressive. To put it another way, I think that when women are encouraged to be competitive, too many of them become disagreeable.

--Dr. Benjamin Spock

300

ERA ARGUMENTS

PRO	CON
1. Equal pay for equal work. The median income of women is only 60% of the males and is still falling as of 1979.	1. The ERA will cut away the strength of the traditional American family.

VALUES CONTINUUM

Place an x on the continuum between 1-5.
ND - not desirable to HD - highly desirable

Equal Employment Opportunities

ND — HD

ND — HD

ND — HD

ND — HD

ND — HD

ND — HD

ND — HD

ND — HD

ND — HD

ND — HD

SENECA FALLS CONVENTION

The first Woman's Rights Convention was held at Seneca Falls in 1848. To dramatize the plight of the American woman, Elizabeth Cady Stanton wrote a Declaration of Sentiments and Resolutions. Modeled after the Declaration of Independence, it listed the repeated injuries and usurpations of the part of men toward women.

1. He has never permitted her to exercise her inalienable right to the elective franchise.

2. He has compelled her to submit to laws, in the formation of which she has no voice.

3. He has withheld from her rights which are given to the most ignorant and degraded men -- natives and foreigners.

4. Having deprived her of this first right of a citizen, the elective franchise, thereby leaving her without representation in the halls of legislation, he has oppressed her on all sides.

5. He has made her, if married, in the eye of the law, civilly dead.

6. He has taken her from all right in property, even to wages she earns.

7. He has made her morally, an irresponsible being, as she can commit many crimes with impunity, provided they be done in the presence of her husband. In the covenant of marriage, she is compelled to promise obedience to her husband, he becoming, to all intents and purposes, her master, the law giving him power to deprive her of her liberty, and to administer chastisement.

8. He has so framed the laws of divorce, as to what shall be the proper causes, and in case of separation, to whom the guardianship of the children shall be given, as to be wholly irregardless of the happiness of women--the law, in all cases, going upon a base supposition of the supremacy of man, and giving all power into their hands.

9. After depriving her of all rights as a married woman, if single, and the power of property, he has taxed her to support a government which recognizes her only when her property can be made profitable to it.

10. He has monopolized nearly all the profitable employments, and from those she is permitted to follow, she receives but a scanty remuneration. He closes against her all the avenues to wealth and distinction which he considers most honorable to himself. As a teacher of theology, medicine, or law, she is not known.

11. He has denied her the facilities for obtaining a thorough education, all colleges being closed against her.

12. He allows her in Church, as well as State, but a subordinate position claiming Apostolic authority for her exclusion from the ministry, and with some exceptions, from any public participation in the affairs of the church.

13. He has created a false public sentiment by giving to the world a different code of morals for men and women, by which moral delinquence which excludes women from society, is not only tolerated, but deemed of little account in man.

14. He has usurped the prerogative of Jehovah himself, claiming it as his right to assign for her a sphere of action, when that belongs to her conscience and to her God.

15. He has endeavored, in every way that he could, to destroy her confidence in her own powers, to lessen her self-respect, and to make her willing to lead a dependent and abject life.

16. Now in view of this entire disfranchisement of one-half the people in this country, their social and religious degradation in view of the unjust laws above mentioned, and because women do feel themselves aggrieved, oppressed, and fraudulently deprived of their most sacred rights, we insist that they have immediate admission to all the rights and privileges which belong to them as citizens of the United States.

17. In entering upon the tremendous work for us, we anticipate no small amount of misconception, misrepresentation, and ridicule; but we shall use every instrumentality within our power to effect our object. We shall employ agents, circulate tracts, petition the State and National legislatures, and endeavor to enlist the pulpit and the press in our behalf. We hope this Convention will be followed by a series of Conventions embracing every part of the country.

For original wording of this document, see Jacobs, William J., Women in American History, Beverly Hills: Benziger Press, 1976, pp. 67-73.

Course and Grade Level: Tenth to Twelfth Grades
Social Studies, Law, Sociology

Topic: STRUGGLE FOR WOMEN'S EQUAL RIGHTS

Topical Question: How have women fought for equal rights in the U.S.?

Time Required: Three fifty-minute class periods

Resources:

Materials: Video tape - The American Women: Portraits of Courage, available from the Statewide Clearinghouse on Law-Related Education, Room 310A, Metropolitan Hall of Justice, 240 East 400 South, Salt Lake City, Utah, 84111, phone: 535-7770.

Content: Through the video tape and the completion and discussion of questions, the students will gain an overview of the major events, people, and movements in U.S. history which have affected the legal, political, social, and economic status of women in U.S. history.

Objectives:

1. Students will identify and place on a time line five major movements in women's struggle for equality.
2. Students will gain an awareness of the continuity and change in women's legal, political, social, and economic status during different periods in history.
3. Students will be able to identify the major leaders of the women's movement and the contributions to the struggle for equality, and will develop an awareness of individual case studies and their effects on the legal rights of all women.
4. Students will demonstrate an understanding of the great effect technological development has had on women's status.

Procedure:

1. As an introduction, have students write down ten men important in U.S. history before 1960. After five minutes, have students write down ten women who have been important in U.S. history before 1960. Compare length and ease in writing the two lists. Discuss reasons for differences in lists. What did the women named by the class do in comparison with what the men named by the class did? Discuss the need for change. (Biased history, need for role models, etc.)
2. Show video tape and have students complete the following questions for discussion. Video tape should be stopped and questions discussed.

   a. What was women's status in colonial days? (legal, political, social and educational restrictions and discriminations)
   b. What did Abigail Adams, Sybil Ludington and Deborah Sampson do?

c. How did the American Revolution start women on the road to freedom?
d. How did women fight for their rights? (Seneca Falls Convention, 1848, Abolitionists).
e. What did the following women do:

Susan B. Anthony
Elizabeth C. Stanton
Harriet Tubman
Sojourner Truth
Harriet Beecher Stowe
Elizabeth Blackwell
Belva Lockwood

f. Describe what each of the following organizations and people did to help advance the status of women:

1) Aid to Poor, Jane Adams
2) Alcohol, Carrie Nation
3) Labor, Mary Jones
4) Population Control, Margaret Sanger
5) Suffrage

g. What do the Comstock Laws tell you about the status of women in the early 1900's?
h. How did the Industrial Revolution change the status of women?
i. How did WWI and WWII affect women's status?
j. Why did women become more militant in the 70's?

Have each student write down five major movements or events which they feel have had the greatest impact on women's status in the U.S., and have students list these movements on a time line.

Evaluation: On a written examination, students should be able to discuss five ways women have obtained legal rights.

Students could research the life of one of the women they find interesting.

Teacher Comments: Additional Resources for background:

1. Carlson, Dale, Girls Are Equal Too, Halliday Lithograph Corporation, 1975.
2. Jacobs, William Jay, Women In American History, Beverly Hills: Benziger, 1976.
3. McBee, Mary Louise, and Kathryn A. Blake, The American Woman: Who Will She Be? Beverly Hills: Glencoe Press, 1974.
4. Merriam, Eve, Growing Up Female In America: Ten Lives, New York: Del Publishing Co., 1971.
5. "Remarkable American Women," Life Special Report, 1976.